Assisted Housing

Options For Private Sector Involvement
and Section 36 Guidelines

SUMMARY

Planning and Development Department
Robert E. Millward, Commissioner
November, 1987

CITY OF TORONTO
PLANNING AND DEVELOPMENT DEPARTMENT

520/087032
CC&W/Mgt.
November 27, 1987
Eudora Pendergrast
392-7611

To: Land Use Committee.

Subject: November 26th Report on Private Sector Involvement in the Provision of Assisted Housing - Summary and Recommended Circulation and Review Procedure.

Origin: Commissioner of Planning and Development. (c71luc87751:43)

Comments:

SUMMARY

1. Origin of the Report

The Planning report, dated November 26, 1987 and entitled Private Sector Involvement in the Provision of Assisted Housing, was produced in response to recommendations in the 1986 Quinquennial Review which called for a program of study respecting, among other issues, alternative approaches to assisted housing production. It also responds to major components of the following recommendations in the October, 1986 report of the Housing Policy Review Committee entitled Living Room II:

"22. That the Commissioner of Planning and Development, in consultation with the Commissioner of Housing and the City Solicitor, be required to explore the legality and possibility of securing assisted, including family, housing in all negotiations involving commercial or residential densities in excess of the Official Plan limits, or transfer of development rights; such investigation to include a review of guidelines which have been developed in other major cities in Canada and the United States for such negotiations, and a proposal for the establishment of guidelines for the City; and that the Commissioner of Housing, in consultation with the Commissioner of Planning and Development, be assigned responsibility for negotiating agreements respecting the satisfaction of assisted housing requirements; and if further legislative authority is required, the City Solicitor be requested to report thereon."

"34. That City Council request the Commissioners of Housing and of Planning and Development, in consultation with the City Solicitor, to review the nature and effectiveness of

policies to obtain housing benefits from private develoeprs that are in use in other jurisdictions, and to report on a suitable policy for use in the City of Toronto."

"36. That City Council request the Commissioner of Planning and Development to report, within six months, on ... (b) changes required to extend the 25 percent density bonus for assisted housing in mixed commercial-residential areas to projects with density calculated according to the FSI formula, in consultation with the Commissioner of Housing and the City Solicitor."

The report was prepared in close consultation with the Commissioner of Housing and the City Solicitor. Discussions were also held with staff of the Ministry of Municipal Affairs and the Commissioner of Finance.

2. Purpose of the November 26th Report

The primary purpose of the report is to identify and evaluate City policy options for promoting increased private sector involvement in the provision of assisted housing, and to put forward the specific options considered most appropriate for implementation and further study.

The report focuses on practical options which could be effectively pursued at the municipal level in the City of Toronto. Therefore, it does not attempt to deal with all of Toronto's housing problems, and does not assess policy options for other levels of government. In addition, the report does not discuss the full range of financial and other implementation strategies for increasing the supply of affordable housing recommended in Living Room II. These proposals which are being considered under the general direction of the Commissioner of Housing. (See the November 13, 1987 report from the Commissioner of Housing entitled Interim Report on Progress of Living Room II Followup.)

The report's focus on the opportunities presented by private development activity is considered appropriate since, under present conditions, the effective involvement of the private sector is critical if the City is to achieve increased production of assisted housing.

3. Content of the November 26th Report

The November 26th Assisted Housing report can be divided into two components. The first (Sections 1-5 and Appendices 1-6) deals with existing City policy and practice respecting the provision of assisted housing. The second (Sections 6-10 and Appendices 7 and 8) identifies, evaluates and makes recommendations respecting options

for promoting increased private sector involvement in assisted housing.

The options examined are divided into two general categories:

i. incentives options, which are authorized by Section 36 of The Planning Act and involve voluntary private sector contributions in exchange for the height and/or density increases; and

ii. exactions options, which are not expressly authorized by any exsiting legislation and involve the imposition of compulsory assisted housing requirments or levies.

The discussion of these two approaches draws on background information from a review of current practice in other North American cities, based on interviews and a review of relevant planning literature.

In addition to the advantage and disadvantages of specific options, the two approaches - the provision of incentives as opposed to the imposition of compulsory requirements - are also evaluated in more general terms.

In addition, both the incentives and exactions options, which are similar in that they are development-dependant, are briefly contrasted to the generation of additional funds for assisted housing by the imposition of an earmarked surcharge on property taxes across the City's tax base.

4. Summary of Findings Regarding Current City Policy and Practice Respecting Assisted Housing and the Private Sector

4.1 Evolution of Assisted Housing Density Bonus Policies

The only policy presently included in the City's Part I Official Plan in order to actively encourage private sector investment in assisted housing is a 25% density bonus policy which allows Council to pass by-laws permitting up to 25% increases in residential density in Mixed Commercial-Residential Areas, provided the extra density is used for assisted housing. These bonuses, which are available as-of-right in the City's Zoning By-law, are authorized by Section 5 of The City of Toronto Act, 1975.

As discussed in the November 26th report, this existing bonus has not been particularly effective as a means of promoting private sector invovlvement in assisted housing. This is primarily because, under current market and funding conditions, the policy does not provide meaningful incentives to private developers. Nevertheless, the City has been able to achieve considerable private sector

investment in assisted housing through other initiatives which fall generally into two categories:

i. the conveyance to the City of land for assisted housing in the context of negotiated site-specific amendments to the Official Plan and Zoning By-law; and

ii. the inclusion of specific assisted housing objectives or requirements in negotiated Part II Plans for major new developments, particularly south of Front Street.

While the existing 25% bonus policy was based on the assumption that the private sector would actually build units which would be publicly subsidized, primarily through the Provincial Rent Supplement Program, these other initiatives recognize that assisted housing will generally be built by the public and private non-profit sectors, and that the most realistic and useful private sector involvement is achieved through the provision of assisted housing sites, assisted housing sites in combination with cash for assisted housing, or, if neither of these alternatives is possible, cash contributions towards assisted housing.

The evolution of the City's assisted housing bonus policy to include these kinds of initiatives is summarized in the November 26th report as follows:

i. In view of the Province's decision not to expand its stock of Rent Supplement units in the City, assisted housing, at this time, can be effectively developed and operated only by the public and private non-profit sectors. This situation is recognized in changes sought by Council to Section 5 of the City of Toronto Act, which provides the legislative basis for the existing 25% assisted housing density bonus. (Appendix 4 of the November 26th report includes a copy of the text of these proposed changes.)

ii. The existing assisted housing density bonus is valuable to public and private non-profit producers in that it reduces their per unit land costs relative to producers of market housing. Amendments to the City of Toronto Act sought by Council would also permit, in addition to density increases, "exemptions or reductions, or both, from the zoning standards and provisions otherwise applicable to similar forms of housing accommodations which are not part of a social housing program." Such considerations are particularly important to assisted housing producers since the MUPS (Maximum Units Prices) established by the Province do not take into account high land and construction costs in the City.

iii. Although valuable to the public and private non-profit sectors, the existing 25% assisted density bonus policy has a limited usefulness in promoting private sector investment in assisted housing. In fact, the existing bonus is really usable only where it is possible to allocate a portion of a private development site to an assisted housing producer and/or operator. Even in these limited instances, the existing policy provides very little real incentive.

iv. Increases in height and/or market residential or commercial density on-site in exchange for the provision of land for assisted housing and/or a cash payment towards assisted housing, as authorized by Section 36 of the Planning Act, 1983, can be and have been used to provide real incentives to promote and secure private sector contributions to the production of assisted housing. Land and funds for the acquisition of land and buildings achieved in this way have, in fact, become critical to the ability of non-profit producers to use provincial unit allocations, given the insufficiency of the MUP's in the Toronto land market.

v. Current use of density incentives to secure private sector involvement in the provision of assisted housing highlights the difficulty, noted in the 1981 planning report Confronting the Crisis, of determining an appropriate relationship between the size of a density incentive and the cost of providing a public benefit. The bonus system proposed for the Part II Plan for the BCED Block (Front, Bay, Wellington and Yonge Streets), which includes an assisted housing bonus, provides a useful example of how such relationships can be formulated.

4.2 Summary of Assisted Housing Data Included in Appendix 1 of the November 26th Assisted Housing Report

Appendix 1 of the November 26th report contains a summary of the City's achievement in promoting private sector involvement in assisted housing.

Table 1 identifies the eight private sector developments which utilized the existing 25% density bonus. Once the three instances in which the assisted units were eventually eliminated are taken into account, the 25% policy has led to the provision of a total of 420 assisted units to date.

Table 3 lists the 13 Central Area developments where the City has received a contribution towards assisted housing in the context of negotiated site-specific Official Plan amendments. These arrangements have resulted in:

- the conveyance to the City or private non-profit housing groups of land for 718 units;

- the acquisition by the City or private non-profit groups of 67 units at MUP rates;

- land for 109 assisted units and $200,000 for assisted housing development costs to be provided to the City in conjunction with the final approval of the Official Plan Amendment for 248 Simcoe Street and 434, 444 and 454 University Avenue;

- the inclusion of approximately 100-200 assisted units when the Massey-Ferguson lands are developed;

- the acquisition by the City of the Biltrite site in the St. Lawrence area at $2,000,000 less than market value at the time this arrangement was agreed to; and

- the targeting of up to 225 assisted units as part of the College Park development.

Table 4 lists three major developments subject to negotiated Part II Plans involving the provision of assisted housing:

- Harbourfront, where the overall objective is that approximately 30% of the total units be assisted, and where, at present, 529 have been completed;

- Railway Lands, where the City will acquire in total approximately 11 acres of land for assisted housing, sufficient to accommodate approximately 2,150 units under approved Official Plan designations; and

- World Trade Centre, where the City is to receive $2,000,000 toward the provision of assisted housing.

The St. Lawrence Part II is not included in Table 4 because it was undertaken directly by the City. However, the St. Lawrence development, which presently contains 1,962 assisted units out of a total of 4,366, and will ultimately include just over 5,000 units, of which about 50% will be assisted, represents a major component of the City's assisted housing stock.

(Table 2 which is not included in the above summary, includes three additional developments, which did not use the existing 25% bonus but which are subject to the same kind of assisted housing agreement required as a condition of the bonus. However, these developments which contain 177 units were all undertaken directly by private non-profit housing groups.)

5. Identification and Evaluation of Options for the New Assisted Housing Policies

Sections 7 and 8 of the November 26th report discusses and evaluates the advantages and disadvantages of two sets of options for new policies for increasing private sector involvement in the provision of assisted housing. The first set consists of options which rely on the provision of height and/or density incentives under the authority of Section 36 of The Planning Act. The second set includes options for compulsory assisted housing requirements, or exactions. Both sets of options, which are alike in that they are development dependent, are briefly compared to the possibility of acquiring funds for assisted housing through an earmarked surcharge on the City's tax base.

The specific incentives and exactions options evaluation are as follows:

7.3.1 Incentives Option 1: Negotiated Site-specific Amendments to the Part I Official Plan and Negotiated Part II Official Plans for Major Developments

7.3.2 Incentives Options 2: On-site Increase in Market Density Residential in Exchange for On-Site Accommodation of Assisted Units

7.3.3 Incentives Option 3: Increases in Density On-site In Exchange for the Provision of Land for Assisted Housing Off-site, with Cash Option

8.4.1 Exactions Option 1: Land or Cash-in-Lieu Requirement as Condition of Any Official Plan Amendment, Calculated as a Fixed Percentage of the Size or Value of the Amendment

8.4.2 Exactions Option 2: Assisted Housing Requirement or Impact Levy for Non-residential Development

8.4.3 Exactions Option 3: Assisted Housing Requirement or Impact Levy for Extra Non-residential Density Achieved Through Official Plan Amendments

8.4.4 Exactions Option 4: Assisted Housing Requirement or Levy For Luxury Residential

6. Proposed New Official Plan Statements

Based on consideration of the advantages and disadvantages of the two approaches involved, as well as the specific options identified, the report recommends an approach based on the more effective and consistent use of density incentives. Specifically the report proposes two new policies to be added to the Official Plan.

The first policy is intended to provide guidelines for the use of height and/or density incentives, particularly with respect to assisted housing. It involves the addition of the following statements to Section 8 ("Implementation") of the Part I Plan:

"8.12 As permitted by Section 36 of The Planning Act, in amending this Plan to include general provisions and policies, and/or provisions and policies developed in the context of applications for specific developments, and in passing zoning by-laws to implement this Plan, Council may authorize increases in the height and/or density of development in order to encourage private sector involvement in the realization of the objectives of this Plan with respect to the following facilities, services and matters:

i. assisted housing;

ii. non-profit community, cultural and institutional facilities;

iii. heritage preservation;

iv. public open spaces beyond that which might otherwise be required pursuant to The Planning Act;

v. significant pedestrian connections in accordance with major public objectives; and

vi. other facilities, services, and matters which may not otherwise be required to be provided pursuant to The Planning Act, and which are considered to be advisable by Council following its consideration of the appropriate planning study.

8.13 In identifying specific facilities, services and matters in exchange for which increases in height and/or density may be authorized, it is Council's intention that such increases should generally be used to promote private sector involvement in the provision and use of land, buildings or parts of buildings, structures and physical spaces for specified purposes.

8.14 In determining the size of any height and/or density increase which it may authorize in accordance with Section 8.12, Council will have particular regard for:

i. the need to ensure an appropriate building scale and satisfactory microclimatic conditions in the context of surrounding development and land uses;

ii. the need to ensure that transportation and other services can accommodate the increase in density;

iii. the estimated market value of the increase in density; and

iv. the estimated cost of providing the specific facilities, services or matters which may be accepted in exchange for any increases in height and/or density.

8.15 In order to ensure that the objectives of this Plan with respect to mixed use development, housing, office space and transportation are not compromised, it is Council's intention that increases in commercial density in accordance with Section 8.12 should generally be limited to the Financial District, except where special area studies, including study of the impact of such incentives, indicates that the provision of such incentives elsewhere is consistent with these objectives.

8.16 With respect to any incentives which may be authorized in accordance with Section a 8.12 in order to promote the provision of assisted housing, it is Council's objective that

a) such provision take the form of:

i. the allocation of land for assisted housing on the development site;

ii. the provision of land acceptable to Council for assisted housing purposes at another location; and/or

iii. a cash payment-in-lieu of the provision of land for assisted housing purposes; and

b) the estimated value of any increases in height and/or density authorized in exchange for the provision of land for assisted housing in accordance with paragraphs (ii) and (iii) of Section 8.16 (a) above and/or any cash payment-in-lieu, should generally not exceed approximately two times the estimated cost of providing the assisted housing contribution.

8.17 With respect to any increases in height and/or density which Council may authorize in exchange for other public benefits, Council recognizes that the provision of certain public benefits may also enhance the value of the private development, and that in such cases a smaller incentive than that provided with respect to assisted housing would be appropriate.

8.18 It is the policy of Council to review any policies and provisions developed in accordance with Sections 8.12 - 8.17 above at least every five years from the date of the approval of those Sections."

The second policy, which is consistent with the guidelines set out above, involves the establishment of a new assisted housing density bonus for the Financial District. This new policy would permit increases in commercial density in the Financial District in exchange for the conveyance to the City of a specified amount of land for assisted housing at another location, with a cash-in-lieu option.

This new policy is set out in the following statements which are proposed to be added to Section 3A.4 of the Part I Plan:

"3A.4(f) Notwithstanding the provisions of Section 3A.4(b), (density provisions for Financial District) Council may pass by-laws pursuant to Section 36 of The

Planning Act to permit buildings containing commercial and/or institutional uses, alone or in combination with other uses permitted by Section 3A.4(b), with a commercial density of up to 10.0, in exchange for the conveyance to the City of a site or sites within the Central Area to be used for assisted housing purposes, provided that:

i. any site to be conveyed to the City for assisted housing purposes in accordance with this section is acceptable to Council;

ii. subject to Section 3A.4(g), the commercial density in excess of 8.0 does not exceed 56 square metres times the aggregate number of conventional assisted housing units permitted by this Plan on the site or sites to be conveyed to the City for assisted housing purposes;

iii. in the case of an assisted housing site which is designated as a Mixed Commercial-Residential Area by this Plan, the number of conventional assisted housing units which may be developed on the site is calculated in units per hectare;

iv. the conveyance of the assisted housing site or sites and/or the provision of any cash payment-in-lieu in accordance with Section 3A.4(h) have been secured by an apropriate legal agreement;

v. for every 100 square metres of additional non-residential gross floor area permitted by a by-law enacted pursuant to this section respecting a lot in the Financial District, the by-law also requires a reduction of one dwelling unit on the Financial District lands to which the by-law applies; and

vi. the aggregate non-residential gross floor area including any non-residential gross floor area permitted by Section 1A.35 or permitted to be excluded from the calculation of density by Section 1A.42, on any lot to which a by-law enacted pursuant to this section applies does not exceed 12 times the area of the lot.

3A.4(g) Notwithstanding the provision of Section 3A.4(f)(ii), where a site to be conveyed to the City for assisted housing purposes is designated by this

Plan to permit commercial density in addition to the maximum residential density permitted by this Plan on the site, each 100 square metres of such residual commercial density may be deemed to be equivalent to a conventional assisted housing unit for the purposes of Section 3A.4(b)(ii).

3A.4(h) In lieu of the conveyance of a site or sites in accordance with Section 3A.4(f), and provided it is satisfied that such a conveyance cannot be achieved, Council may accept funds sufficient to acquire the same amount of land within the Central Area at market value, for assisted housing purposes.

3A.4(i) It is the policy of Council to review the use of the provisions of Sections 3A.4(f) - 3A.4(h) at two-year intervals in order to determine:

i. whether the provisions have been effective in securing the expansion of the City's stock of assisted housing; and

ii. whether the increased commercial density permitted through the implementation of these provisions has had an undesirable impact on the City; and

ii. in order to recommend revisions to these provisions as considered appropriate in the context of the findings of the review."

The report does not recommend that by-laws to give effect to these amendments be drafted and submitted, but instead recommends that the statements be reviewed through the circulation process and at the public meeting called for in this report. Once this public and agency review has taken place, I will report further on the proposed amendments, in consultation with the Commissioner of Housing and the City Solicitor, taking into account comments received, and including draft by-laws, if appropriate.

7. Other Recommended Actions

In addition to recommending further reports on the proposed Official Plan statements set out above, the November 26th report also recommends:

- that the necessary draft by-laws be submitted to extend the existing 25% density bonus to developments proceeding under the FSI option for calculating residential density;

- that the review of residential densities called for in the 1986 Quinquennial Review ("UPH/FSI Review"), as well as other area-specific and Part II studies dealing with residential densities consider the inclusion of provisions permitting increases in convential residential density in exchange for the provision of land for assisted housing, with a cash-in-lieu option, taking into account the considerations regarding this option set out in the report and the context provided by the new Section 8 Official Plan statements set out above;

- that if Council wishes to pursue the longer term option of a compulsory assisted housing requirement or levy, it should request a further report on this matter, including the rationale for such a requirement or levy, the methods for implementing it, and any new legislation considered appropriate;

- that Council instruct the Commissioner of Planning and Development to give a high priority to securing the provision of assisted housing in negotiations with private developers where the use of Section 36 incentives are considered appropriate;

- that the Commissioner of Finance establish an Assisted Housing Reserve Fund to accommodate any assisted housing cash payments received pursuant to Section 36 of The Planning Act; and

- that the Commissioner of Housing, in consultation with the Commissioner of Planning and Development and the City Solicitor, report on new programs for expanding the stock of assisted housing in the City which might be funded from the Assisted Housing Reserve Fund recommended above;

8. Conclusions Respecting Recommended Policies and Objectives for Evaluation of Options

Section 9.1 of the November 26th report summarizes the following objectives for evaluating the options discussed as follows:

1. the achievement of increased private sector investment is asssisted housing in a manner which:

   a. is clearly sanctioned by appropriate enabling legislation;

   b. supplements but does not substitute for funding from other levels of government; and

   c. is consistent with the underlying principles of the Official Plan; and

2. the introduction of greater certainty and consistency into the process whereby public benefits, including assisted housing, are achieved in the context of private development activity.

The Official Plan statements proposed in the November 26th report and set out above are considered to meet these objectives as follows:

- They are clearly authorized by Section 36 of The Planning Act.

- By promoting the provision of land or cash-in-lieu funds they will help to make provincial MUPs (Maximum Unit Prices) useful in the Toronto land market, and thus will complement but not replace existing programs funded by other levels of government.

- By setting general limits for the use of incentives which are consistent with the underlying principles of the Plan, they will help to ensure that these principles are respected.

- The guidelines set out in the proposed statements included in Appendix 7, and the specific Financial District assisted housing bonus policy proposed in Appendix 8 of the November 26th report, should introduce greater certainty and consistency into the process for achieving public benefits, including assisted housing, through the use of height and/or density incentives.

CIRCULATION AND REVIEW OF NOVEMBER 26TH REPORT

Because the attached report deals with proposed Official Plan amendments it should be forwarded to the Planning Advisory Council for the holding of a public meeting. Following approval of a recommendation to this effect, I will establish a time and place for such a meeting with the Chairman of the Planning Advisory Committee. Notices of this meeting and a copy of this Summary Report can then be forwarded to all residents and ratepayer groups, business associations and other interested parties, including the Ministries of Housing and Municipal Affairs, the Metro Commissioners of Planning and Roads and Traffic, Cityhome, the Co-operative Housing Federation, the Labour Council Development Foundation, Lantana, the Supportive Housing Coalition, the Toronto Arts Council, Toronto Artscape, the Ontario Homebuilders Association and the Urban Development Institute.

Land Use Committee November 27, 1987

Recommendation:

That this report and the attached November 26th report be referred to the Planning Advisory Committee for the circulation of this report and the holding of a public meeting in accordance with the procedure summarized above.

Robert E. Millward
Commissioner

EP:jd

Assisted Housing

Options For Private Sector Involvement

and Section 36 Guidelines

Planning and Development Department
Robert E. Millward, Commissioner
November, 1987

CITY OF TORONTO
PLANNING AND DEVELOPMENT DEPARTMENT

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CITY OF TORONTO
PLANNING AND DEVELOPMENT DEPARTMENT

520/087032
CC&W/Mgt. & Support
November 26, 1987
E. Pendergrast
392-7611

To: Land Use Committee.

Subject: Private Sector Involvement in the Provision of Assisted Housing: A Review of Current Initiatives and Policy Options, with Proposals for General Guidelines Respecting Height and/or Density Incentives Under Section 36 of The Planning Act and An Assisted Housing Bonus for the Financial District.

Origin: Commissioner of Planning and Development. (c71luc87173:43)

Comments:

1. Background, Purpose of this Report and Summary of Recommendations

1.1. Background

With the adoption of the 1973 report of the Housing Work Group entitled Living Room, City Council formally endorsed as a major policy objective the "provision to all residents of decent housing in a suitable living environment at a price which they can afford." This overall goal, as well as the specific housing objectives and targets proposed in the Living Room report, provided the basis for the housing policy statements added to the City's Official Plan in 1976, in conjunction with the Central Area Plan amendments.

Included in these housing statements were policies and targets intended to promote the provision of assisted housing, and during the last decade and a half the City's accomplishments in this area have been impressive. Well over 5,000 assisted units have been developed or acquired by the City's Non-Profit Housing Corporation (Cityhome), and private non-profit housing groups now own and operate over 6,000 additional assisted units. Rental housing provided by Metro Toronto Housing Authority, the Ontario Housing Corporation's Rent Supplement Program, and Metro Toronto Housing Company Ltd., bring the total number of assisted units in the City to 26,612.

Despite these accomplishments, the City did not succeed in meeting its assisted housing targets for the period 1976-86. In the City as a whole, 13,875 approvals of the 20,000 targeted were achieved, and of the 15,000 targeted for the Central Area, only 7,924, or about 53%, were realized. In fact, as noted in the 1986 Quinquennial

Review (QQR), the City's assisted housing achievements have barely been sufficient to keep pace with a steady decline in its stock of affordable rental housing.

One reason for the City's failure to achieve its 1976-1986 targets is the fact that the private sector did not participate in the production of assisted housing to the extent anticipated, largely because of changes in government programs and market conditions. These program changes also made the City's existing 25% assisted housing density bonus policy a relatively ineffective tool for achieving these targets.

Specific recommendations respecting the need to promote greater private sector involvement in the provision of assisted housing were included in the 1986 report of the City's Housing Policy Review Committee, Living Room II, which assessed in detail the extent of the affordable housing crisis confronting an increasingly large segment of Toronto's population. Just as private sector involvement was to have been key to the realization of the 1976-86 targets, such involvement will undoubtedly be critical to the City's ability to achieve any new assisted housing goals, such as the ambitious net targets recommended in Living Room II.

The need for a more effective framework for promoting private sector investment in assisted housing was also addressed in the 1986 Quinquennial Review (QQR), which, among other things, called for a two-phase study to review recent assisted housing initiatives and policy options. The report before you now is the first phase of this two-phase study. Once Council has considered the options it discusses and recommends, and the public review recommended in the attached covering report has occurred, Phase II reports respecting the implementation of specific options and related actions can be submitted.

1.2 Purpose of the Report and Summary of Conclusions and Recommendations

The primary purposes of this report are:

i) to review the City's existing assisted housing density bonus policy and other initiatives taken by Council to promote private sector involvement in the provision of assisted housing;

ii) to assess options for new policies to promote such involvement, taking into account the positive aspects of specific initiatives pursued to date and examples provided by other municipalities; and

iii) to make recommendations respecting those options considered most appropriate for implementation or further study.

The report does not attempt to assess either broader economic conditions affecting the housing market or policy options for other levels of government. In addition, the report does not discuss the full range of financial and other implementation strategies for increasing the supply of affordable housing recommended in Living Room II. These matters are being pursued under the general co-ordination of the Commissioner of Housing, in consultation with myself and other civic officials. (See the November 13, 1987 report from the Commissioner of Housing entitled Interim Report on Progress of Living Room II Followup).

The report does respond to Recommendation 22 and 34 in Living Room II, which call for reports on the use of negotiated Official Plan amendments and other policy approaches for obtaining assisted housing contributions from private developers, with reference to policies used in other jurisdictions. It also addresses Recommendations 36(b) of Living Room II regarding the extension of the existing 25% density bonus to the FSI formula for calculating residential density in mixed commercial-residential areas.

While the report finds that negotiated Part II Plans and site-specific Official Plan and Zoning By-law amendments have provided valuable opportunities to secure assisted housing, it also concludes that there is a need for greater clarity and consistency respecting the relationship between the size of density increases and the extent of any assisted housing contributions secured in exchange. Such clarity and consistency should help to promote increased private sector involvement in the realization of Council's assisted housing goals.

Consistent with these findings, the report recommends:

i) that new statements, along the lines set out in Appendix 7, be added to the Official Plan in order to identify the conditions under which height and/or density incentives pursuant to Section 36 of The Planning Act, 1983, might be authorized by Council in Official Plan amendments to permit specific development proposals or to establish more general incentive policies;

ii) that the Official Plan be amended to include an assisted housing bonus policy for the Financial District, generally as set out in Appendix 8, which would permit Council to pass by-laws allowing increased commercial density on a site in the Financial District in exchange for the

provision of land to accommodate a specific amount of assisted housing off-site, with a cash-in-lieu option; and

iii) that in carrying out area-specific, Part II or general planning studies respecting residential densities, including the "UPH/FSI Review" called for in the 1986 OQR, particular consideration be given to opportunities to achieve assisted housing in conjunction with private development, including the establishment of incentive policies consistent with the context provided by the proposed statements included in Appendix 7.

The report also recommends that if Council wishes to pursue the use of compulsory assisted housing requirements or levies, either instead of or in addition to density incentives, I be requested to report further on this matter.

In view of the fact that the City may receive cash-in-lieu payments in exchange for assisted housing incentives, and might ultimately obtain funds through an assisted housing levy, the report recommends that an Assisted Housing Reserve Fund be established, and that the Commissioner of Housing, in consultation with myself and the City Solicitor, report on specific capital programs to be funded from this source.

In order to ensure that the existing assisted housing density bonuses authorized by the City of Toronto Act are consistently available to non-profit housing operators, the report recommends that the existing 25% bonus be extended to developers proceeding under the "FSI Option" in Mixed Commercial-Residential Areas, and that the City Solicitor, in consultation with myself, submit the draft by-laws necessary to give effect to this recommendation.

Finally, the report recommends that in view of the need for additional assisted housing, the provision of assisted housing be a priority when negotiations with developers to achieve public benefits are considered appropriate on planning grounds.

This report has been prepared in close consultation with the Commissioner of Housing and the City Solicitor.

2. Existing Policy Respecting the Provision of Assisted Housing

2.1 The City's Housing Goals and Policies

The primary goals of the City's housing policy, as set out in Section 2A.1 of the Official Plan are:

"a) the provision of decent housing to all residents in a suitable living environment at prices which they can afford;

b) the equitable distribution of housing to meet the needs of identified target income groups;

c) the preservation and improvement of existing housing and existing residence areas; and

d) the provision of housing which is accessible to and meets the needs of the handicapped and the elderly."

When these goals were added to the City's Official Plan in 1976, it was clear that their realization could not be achieved by the private sector alone. Consequently, the City's housing policy emphasizes the need to promote the production of substantial targeted amounts of government-assisted housing. As set out in Section 2A of the Official Plan, this was to be achieved through:

(i) area-specific housing initiatives, including the use of density incentives (2A.4);

(ii) monitoring of the production of assisted housing within the City (2A.5);

(iii) co-ordination of the delivery of all housing produced in the City under government programs (2A.6);

(iv) landbanking for appropriate housing producers, with priority given to public and private non-profit producers (2A.7);

(v) the acquisition of land and buildings either directly or through Cityhome, the City's Non-Profit Housing Corporation (2A.8(a));

(vi) the production of assisted housing either directly or through Cityhome (2A.9(a)); and

(vii) the acquisition, improvements and/or conversion of existing houses for individuals and families of low-to-moderate incomes, either directly or through Cityhome (2A.9(b)).

It should be noted that the assisted housing targets for the period 1976-86 were considered feasible on the assumption that the private sector could, and would, play a major role in their

realization. For example, the 1975 Central Area Plan Proposals report indicated that if the 4,500 assisted units targeted for the Central Core were to be achieved, some 2,000 - 2,500 of these units would have to be produced by private developers. The 1974 Core Area Housing Study, which provided a basis for the 1976 policies, was even more explicit in its estimates of the role of the private sector operating through then-existing government programs.

2.2 Description of Existing Assisted Housing Density Bonus Policy

As part of an effort to promote the provision of assisted housing, Section 1A.21 of the Part I Official Plan allows Council to pass by-laws permitting up to 25% increases in residential density in Low, Medium and High Density Mixed Commercial-Residential Areas, provided the extra, or bonus, density is used for assisted housing. In accordance with Section 2A.4, referred to in Section 2.1 above, similar density bonus provisions have been included in Part II Official Plans for areas both inside and outside the Central Area.

In some instances, Part II assisted housing bonuses provide a stronger incentive than the 25% increase permitted by the Part I Plan. For example, the South of Carlton Part II allows Council to pass by-laws in High Density Residence Areas to increase the maximum residential density from 1.5 times to 2.5 times, provided 50% of the additional units are assisted. Policies along these lines provide extra density for market housing, as well as the extra density required to accommodate assisted units.

The Part I 25% assisted housing density bonuses are available "as-of-right" through provisions in the City's Zoning By-law which allow for up to 25% additional residential density, provided that:

> "the owner of the lot agrees with the Corporation, pursuant to Section 5 of the City of Toronto Act, 1975, as amended from time to time, to provide the additional residential gross floor area for the purposes of an assisted housing program."

The requirement for an assisted housing agreement under Section 5 of the City of Toronto Act is also built into Part II bonuses such as those referred to above. This legislation, a copy of which is set out in Appendix 2 to this report, defines an assisted housing program as follows:

> "assisted housing program means a program which, in the opinion of the Council of the Corporation, is designed to provide housing accommodation, by sale or lease, at a price or rental

below the current market price or rental in the area in which the accommodation is located." (Section 5(1)).

The City's Part I Official Plan definition of assisted housing goes beyond that included in the City of Toronto Act to require that the housing be government-funded and priced not simply below market rates, but sufficiently below to be affordable to households whose incomes fall in the lower two-quarters of the City's income distribution. The assisted housing agreements required by the Zoning By-law definition are drafted to ensure compliance with the Official Plan definition, as well as with the City of Toronto Act.

Table 1 in Appendix 1 of this report contains a list of the 8 occasions on which private developers have utilized assisted housing density bonuses available either as-of-right or, in the case of 17-23 Pembroke Street, through a rezoning in accordance with a Part II Official Plan. Table 2 includes additional projects which are subject to assisted housing agreements. These other projects were undertaken by private non-profit housing organizations, and include projects developed in areas where the 25% density bonuses are not available.

In addition to the developments included in Tables 1 and 2, Cityhome and private non-profit assisted housing producers routinely use available assisted housing density bonuses. It is difficult to identify all of the projects where this has occurred, however, since Cityhome is not required to enter into assisted housing agreements. (Both Cityhome and private non-profits have also developed buildings in areas where no bonuses are available, hence Table 2 is far from accounting for all private non-profit developments in the City.)

2.3 Limitations of Existing Assisted Housing Density Bonus Policy as Means of Promoting Private Sector Investment in Assisted Housing

As noted in Table 1, in two of the eight instances where private developers obtained existing assisted housing bonuses (20 Carlton Street and 27 Wellesley Street East), the extra units were ultimately permitted to be leased at market rates when it was establsihed that these units would not be taken up by the Rent Supplement Program. In a third, 74-76 Gerrard Street East, the bonus units were eliminated altogether through the enlargement of non-bonus, market units. Consequently, during the past decade, there have been only five instances, involving 420 assisted units, where existing assisted housing density incentives have been used to achieve assisted housing.

Of these five instances, there is only one example where a bonus was used directly by the developer as originally intended. This one exception is 55 Charles Street West where, as a result of special arrangements between the developer and the Province, 79 units are considered to be assisted. These arrangements are not considered particularly desirable from the City's point of view since they involve the Province and the landowner only, and cannot be monitored by Council.

As discussed in the March 5, 1986 report from the Chairman of the Neighbourhoods Sub-Committee on Assisted Housing Legislation entitled Proposed Amendments to Legislation Respecting Assisted Housing and Non-Profit Housing Organizations (Clause No. 31, Report No. 13 of the Neighbourhoods Committee) and in my report dated June 16, 1986, which was before Council at the same time, the limited usefulness of the density bonus policy is primarily due to the fact that the Ontario Housing Corporation's (OHC) Rent Supplement Program has effectively been the only program under which private developers could use the bonus directly, without the involvement of a separate non-profit housing producer. (Under the Rent Supplement Program, tenants pay geared-to-income rents, and government subsidies make up the difference between these rents and the market rents for the units.) However, OHC has not been willing to give a commitment to lease bonus units in new private projects under the Rent Supplement Program until the project is substantially completed, and generally refuses such units upon completion. Even if OHC does lease some units for the Rent Supplement Program, it may do so for one to three years only, with leases that are renewable by mutual consent, which developers may withhold.

As stated in the August 8, 1986 letter from the Ministry of Housing, included in Appendix 2 to this report, the Province is not willing to change its policies in order to make the Rent Supplement Program a viable means whereby private developers can utilize the density incentives provided by the City's existing assisted housing density bonus policies. Even if subsidies were available, virtually no new private rental housing is being developed.

In view of these considerations, particularly the fact that supplemented units are not secure over the long term, the Commissioner of Housing has advised me that neither Cityhome nor the private non-profit housing sector sees the Rent Supplement Program as an adequate response to the need for assisted housing.

Despite the limitations of the Rent Supplement Program, private developers are able to obtain density bonuses to accommodate units developed and/or operated by non-profit agencies or cooperatives,

taking profits from land sales and construction and management contracts. However, this approach requires either a site large enough to permit a portion of it to be conveyed to a non-profit operator, or a willingness on the part of the developer to allocate units within an otherwise market development to a non-profit operator. Of the projects listed in Table 1, only the One Park Lane development, which includes a site leased on a long term basis to a non-profit housing co-operative, has utilized the existing bonus in this way.

The remaining three projects utilizing existing bonus provisions (25 and 145 Mutual Street and 17-23 Pembroke Street) were developed by the private sector and sold to Cityhome for the Province's Maximum Unit Prices (MUPs) on a turnkey basis.

In view of the clear evidence that private developers are unable to provide assisted units on their own, and in order to avoid additional situations where units constructed under the bonus policy make their way onto the private market, or, as in the case of 55 Charles Street West, the arrangements respecting the bonus units cannot be monitored by the City, Council has authorized the City Solicitor to apply to the Legislative Assembly for amendments to Section 5 of the City of Toronto Act. If approved, these amendments will change the definition of assisted housing so that the incentives permitted by that legislation are available only to non-profit housing producers. Similar amendments to the Official Plan and Zoning by-law are pending. (See Clause 31 of Report No. 13 of the Neighbourhoods Committee, adopted by Council at its meeting of July 14 and 18, 1986).

The text of the proposed amendments to the City of Toronto Act, the Official Plan and the Zoning By-law are set out in Appendix 3 to this report. Among other things, the new legislation would replace the term "assisted housing" with the term "social housing", and would permit Council to vary other zoning standards and provisions, in addition to those respecting density.

2.4 Assisted Housing Density Bonus and FSI Option for Calculation of Residential Density

On September 23, 1986, Council adopted by-laws amending the Official Plan and Zoning By-law to permit residential densities in Low, Medium and High Density Mixed Commercial-Residential Areas to be calculated using a floor space index as an alternative to the units per hectare (units per acre) method introduced by the Central Area Plan. Because of the high units per hectare density permitted there, and the fact that this area is not a high priority area for housing, the FSI option was not extended to the Financial District.

The purpose of these amendments was to facilitate the development of smaller, presumably more affordable, units. The increased number of units permitted under the FSI alternative is subject to a maximum gross floor area (FSI) limit and, in Medium and High Density Mixed Commercial-Residential Areas, to a minimum average unit size of 50 square metres.

The relationship between these residential density changes and the 25% bonus was given consideration only in the July 4, 1983 planning report entitled Review of Residential Zoning System for Commercial-Residential Districts, which very briefly discussed the maximum number of units permitted under an early proposal for revised density provisions. The extension of the 25% bonus to what became, in later reports, the FSI option was neither discussed nor recommended. The fact that the 25% density bonus is not available under the FSI, or smaller unit, option is discussed in Living Room II, where it is noted that the changes in residential density provisions "have effectively removed the incentive to provide assisted housing in order to obtain a density bonus."

This is the case for two reasons. First, the FSI option allows the number of units permitted on a site designated Mixed Commercial-Residential to be very substantially increased without providing any assisted housing. Second, the absence of a density bonus under the option which permits the maximum number of units to be increased restricts the ability of non-profit producers to bid competitively for housing sites. That is, since government guidelines limit the prices non-profit producers are able to pay for development sites, the ability to build more units than market producers is critical to their success in acquiring sites in competition with profit-making housing producers. The failure to extend the 25% bonus for the FSI option thus limits the ability of non-profit producers to acquire sites on the open market.

In view of the effects of the change in density calculations on non-profit producers, Living Room II recommends that I report on:

> "changes required to extend the 25 percent density bonus for assisted housing in mixed commercial-residential areas to projects with density calculated according to the FSI formula, in consultation with the Commissioner of Housing and the City Solicitor." (Recommendation 36(b).

Having reviewed this matter, it seems clear that the value of the 25% bonus to non-profit housing producers and, specifically, its impact on their competitiveness when bidding for housing sites was not taken into account when the FSI alternative was introduced. Having now considered these factors, I see no reason why the 25%

bonus should not be available under the FSI option. Consequently, I am recommending that the City Solicitor submit the necessary draft by-laws to amend the Official Plan and Zoning By-law in order to provide for assisted housing density bonuses of up to 25% for developments proceeding under the FSI option in Medium and High Density Mixed Commerical-Residential Areas.

Because the FSI option was added to Low Density Mixed Commercial-Residential Areas through amendments to the small sites policy, the 25% density bonus is already available under the FSI option in these areas. As noted previously, the FSI option was not extended to the Financial District and, in any event, the Official Plan does not allow for an assisted housing bonus in this area.

3. Other Initiatives Taken by Council to Promote Private Sector Investment in Assisted Housing

As noted in my November 28, 1986 Policy Context report on the assisted housing policies in the World Trade Centre Part II Plan, the City has been able to promote private sector investment in assisted housing beyond that secured through the existing 25% density bonuses permitted by the Official Plan. These achievements are the result of initiatives which fall generally into two categories:

a. the conveyance to the City of land for assisted housing purposes in the context of negotiated site-specific rezonings and Official Plan modifications or amendments; and

b. the inclusion of specific assisted housing objectives or requirements in Part II Plans for major new developments, particularly for lands south of Front Street.

Projects involving private sector contributions to the provision of assisted housing obtained through these kinds of planning initiatives are included in Tables 3 and 4 in Appendix 1 to this report.

Examples of the first category include negotiated settlements of objections to the Central Area Plan, such as the Crown Life, Eaton Centre Phase II, Twigg-Trizec (Atrium-on-Bay), and College Park settlements, as well as more recent developments, such as 1001 Bay Street, Scotia Plaza-Waterpark Place, Wellesley-Phipps, and Massey-Ferguson. The second category at present comprises the Part II Plans for Harbourfront, the Railway Lands, and the World Trade Centre.

(The Part II Plan for St. Lawrence is not included in this second category since this development was undertaken directly by the City. However, the St. Lawrence Neighbourhood, which presently contains 1,962 assisted units out of a total of 4,366, and will ultimately contain just over 5,000 units, of which approximately half will be assisted, represents a major component of the City's stock of assisted housing.)

The Harbourfront Part II Plan originally called for the provision of 30% of the total number of units as assisted housing, but was subsequently amended to delete the requirement that 30% of the units on Maple Leaf Quay be assisted, in view of the fact that a project involving 502 rental units on the Quay was considered by Council to be "comparable" to assisted housing projects in Harbourfront. As noted in Table 4, some 529 assisted units, in addition to these 502 rental units, are complete or under construction. This represents about 17% of the total number of units completed or under construction at present. In addition, a 119-unit non-profit housing co-operative is proposed for Bathurst Quay.

The Railway Lands Part II, whose implementation relies on agreements authorized by special provisions of the City of Toronto Act, requires that approximately 13.5 acres of land within the Railway Lands (an area considered sufficient to accommodate approximately 30% of the total anticipated units, or about 2,150 units) be conveyed to the City. The World Trade Centre Part II requires an agreement pursuant to Section 36 of the Planning Act, dealing with the payment of $2,000,000 to assist in the fulfillment of the Part II policy that Council secure assisted housing units equal to 30% of the units permitted in the residential portion of the World Trade Centre area on an appropriate site or sites outside that area.

Setting aside any cash payments, the $2,000,000 reduction in the price of the Biltrite site, and any units or land which may be achieved through the CBC, College Park or Massey-Ferguson developments, these initiatives, which are summarized in Tables 3 and 4 of Appendix 1, have resulted in the conveyance to the City or private assisted housing producers of land for 718 units, the acquisition at MUP rates of 67 units, and the development of 529 assisted units at Harbourfront. Lands provided or to be provided to the City as part of the Railway Lands Part II Plan will be sufficient to accommodate about 2,150 additional units under existing Part II Official Plan designations.

All of these initiatives ultimately rely on the provision of real market incentives to obtain assisted housing contributions. The relationship between the amount of assisted housing involved and

the size of the incentive provided is difficult to determine, however, since site-specific planning considerations, as well as the provision of other public benefits, such as heritage preservation, public open spaces, or workplace daycare, are almost always involved. In addition, the formulation of these amendments did not involve asssessment of the relationship between the value of the amendment to the developer versus the cost of providing the benefit.

Such an assessment could, in fact, be considered inappropriate in the case of Part II Plans for the redevelopment of largely unserviced lands where there is general agreement that existing Official Plan and Zoning By-law designations are obsolete. In these kinds of situations the value of the new designations applied in relation to the obsolete designations which they replace is extremely difficult to measure. The value/cost relationship is also less relevant under these circumstances than in situations where the Official Plan and Zoning By-law designations applying to the site before the density increase are considered reasonable.

In addition to relying on the provision of market incentives, these recent initiatives also differ from the existing 25% assisted housing bonuses in that the assisted housing contribution is usually made through the conveyance of land at a different location from the development site. In addition, in the case of the World Trade Centre, the Part II Plan allows for the payment of $2,000,000 by the developer to the City.

In summary, these recent initiatives can be seen as an evolution of the original assisted housing density bonus policy included in the Official Plan in 1976. As the result of changes in market conditions and government programs, particularly the Province's decision not to expand its stock of new Rent Supplement units, the initial 25% bonus has been used infrequently, and other initiatives, involving more meaningful incentives, have been pursued. The original policy was based on the assumption that the private sector would actually build units which would be publicly subsidized, primarily through the Rent Supplement Program. Recent initiatives, however, recognize that assisted housing will be built by the public and private non-profit sectors, and that the most realistic and useful private sector involvement is achieved through the provision of assisted housing sites, or, if this is not possible, cash payments toward assisted housing.

The provision of land has in fact been clearly identified as essential to the continued abiilty of the public and private non-profit sectors to respond to the City's pressing need for assisted housing, since the largest impediment to the production of

assisted housing is the lack of sites at prices sufficiently low to be covered by the MUPs established by the Province.

It is also important to note that, as the figures in Tables 1, 3 and 4 indicate, the use of negotiated site-specific and Part II amendments involving incentives has been considerably more successful in securing private sector involvement in the provision of assisted housing than the existing 25% density bonus has been. If pursued more consistently and with greater attention to the relationship between the size of the incentive and the amount of assisted housing involved, such initiatives could make an even greater contribution to the enlargement of the stock of assisted housing in the City.

4. Section 36 of The Planning Act

4.1 Legislative Authority for Off-Site Assisted Housing and Cash Payments

Although both the existing and the proposed legislative authority for the 25% bonus allow for density increases on a development site in order to accommodate assisted housing on the site, neither provides authority for increased density for private development in exchange for either the provision of land for assisted housing at a different location, or a cash payment towards assisted housing.

However, in 1983 a new Section 36, included in its entirety in Appendix 5 to this report, was added to The Planning Act. Section 36 permits Council to pass zoning by-laws authorizing increases in height and density in return for the provision of "such facilities, services or matters as are set out in the by-law", provided that provisions relating to the authorization of the increases in height and density are contained in the Official Plan.

A key provision of Section 36 is the authority it grants to municipalities to require landowners who elect to provide a facility, service or matter in exchange for increased height or density to enter into agreements regarding the provision of the facility, service or matter, and to have such agreements registered against the land in question, so that they are enforceable against both present and subsequent owners. Since assisted housing initiatives which involve the provision of land off-site or cash-in-lieu payments cannot rely on the legislative authority provided by the City of Toronto Act, Section 36 has become key to the realization of such initiatives.

"Guideline 8: Zoning and Other Land Use Controls", published by the Ministry of Municipal Affairs and Housing in October, 1983, describes the purpose of Section 36 as follows:

> "The increased density or bonus provisions in the legislation enable a municipality to award increases in density and height of development in return for meeting specific municipal planning objectives. The provisions are intended to provide incentives to encourage private sector involvement in the achievement of stated public objectives, such as the provision of special or assisted housing, the preservation of buildings with historical or architectural value or the provision of additional open space or other service.
>
> The bonus provisions provide a legislative framework for negotiating site-specific development arrangements with a developer by giving him the option of either developing to the standard zoning provisions or receiving the height or density bonus in return for providing identified facilities. If the developer chooses to take advantage of the bonus option an agreement would likely be needed between the developer and the municpality."

In view of the very general wording of Section 36, the Provincial Guideline is useful as an indication by provincial officials of the nature and scope of the powers given to municipal councils by this relatively new legislation. For this reason, the complete text of the Section 36 Provincial Guideline is contained in Appendix 6 to this report.

4.2 Cash Payments Under Section 36

While it is accepted that Section 36 provides legislative authority for the use of density and height incentives as a means to encourage the provision of land for assisted housing, questions have been raised as to whether the phrase "facilities, services and matters" can include cash contributions towards the provision of assisted housing. This issue was brought into focus by the inclusion in the World Trade Centre Part II Plan of a condition that a $2,000,000 contribution be made toward the provision of off-site assisted housing.

In considering this concern it is important to note that the question of cash payments pursuant to Section 36 is relevant to a range of public benefits. For example, the World Trade Centre Part II requires the provision of funds for public infrastructure, workplace daycare and a public art competition, in addition to the $2,000,000 contribution to the implementation of the Part II's assisted housing goals.

In general terms, the primary consideration in determining whether a particular policy is authorized by Section 36 would seem to be not so much a matter of whether a cash payment is involved as whether the policy provides for an incentive, which may be taken up voluntarily by a landowner, as opposed to an exaction, such a development levy or other compulsory requirement, with which a landowner must comply whether he wishes to or not. While Section 36 does not provide authority for development levies or other exactions, it does provide legislative authority for incentives. The question of whether the incentive may be achieved by the payment of money to implement an appropriate objective, rather than through the provision of physical facilities or services, seems a secondary issue.

In the particular case of assisted housing incentives, the provision of a cash-in-lieu option is critical if density increases are to be provided in exchange for the provision of assisted housing sites. For example, without a cash-in-lieu option, smaller developers and the owners of smaller sites would be at an unfair disadvantage relative to large developers and owners of larger sites. Smaller-scale developers would not be as able to acquire assisted housing sites, and owners of smaller sites would be less likely to be able to convey a portion of their development parcel, or to generate an assisted housing requirement large enough to make the acquisition of a separate assisted housing site a feasible alternative.

In terms of the World Trade Centre Part II requirement, the Ontario Municipal Board in its September 9, 1987 Decision, found that the "cash-in-lieu option was the only reasonable method open to the City in this instance, to provide for assisted housing." While the Board made it clear that it did not view the World Trade Centre Part II cash-in-lieu payment as a precedent, its approval of this particular provision of the Part II Plan indicate that in the Board members' view, cash-payments-in-lieu are permitted under Section 36.

4.3 Determining the Size of Section 36 Bonus and the BCED Example

In the December 1981 Housing Department report Building Challenges, the Commissioner of Housing recommended that the Commissioner of Planning and Development report on the use of density bonuses on private development sites in exchange for the provision of a satisfactory site for assisted housing at another location, with a cash-in-lieu option. While the 1982 Planning and Development Department report Confronting the Crisis, which was considered by the Neighbourhoods Committee at the same time, noted that this suggestion had merit, it did not recommend that it be pursued.

The primary reasons given for this position were the difficulty in determining the appropriate relationship between the value of a density increase and the cost of providing the assisted housing contribution, and concern about the City's ability to defend its position if it refused an application on the basis that the assisted housing contribution was inadequate.

The latter difficulty, i.e. the City's ability to defend the possible position that a particular contribution was insufficient, has been mitigated by the introduction of Section 36, and the explicit authority it provides to include density bonuses in the Official Plan and Zoning By-law. The first issue, i.e., the determination of an appropriate relationship between the value of the density bonus and the cost of providing the assisted housing combination, remains a difficult one.

As use of Section 36 increases, the need for policies to establish relationships between density increases and the provision of public benefits which are as clear and consistent as possible becomes more important. The approach approved by Council for the Part II Plan for the block bounded by Front, Bay, Wellington and Yonge Streets, which BCED - Bell Canada Enterprises Developments - proposes to develop, provides a valuable example of how such relationships can be established. (See my July 9, 1987 report entitled Part II Official Plan approach for block bounded by Front Street West, Bay Street, Wellington Street West and Yonge Street: Application No. 1986 - BCE Place; as well as my August 6, 1987 report entitled Calculation of Assisted Housing Bonus - Proposed Part II Plan for block bounded by Front Stret West, Bay Street, Wellington Street West and Yonge Street; and my November 12, 1987 Final Report on the BCED application.)

As discussed in the above-noted reports, the development of the Part II bonusing system for the BCED block was based on an assessment of the approximate net present value of each extra square foot of bonus commercial density on one hand, and the cost of providing the public benefit on the other. The assisted housing bonus was formulated to equal about twice the value of the cost of providing the assisted housing site and cash in lieu payment. However, the incentive established for other benefits, which will have an on-site value for the developer, was much closer to the actual cost of providing the benefit.

5. Conclusions Respecting the Evolution of the City's Assisted Housing Density Bonus Policy

The City's assisted housing initiatives discussed in Sections 3 and 4 above represent an evolution of the assisted housing density bonus policy which was added to the Part I Official Plan in 1976.

The major aspects of the evolving policy can be summarized as follows:

i) Particularly in view of the Province's decision not to expand its stock of Rent Supplement units in the City, assisted housing can be effectively developed and operated at this time only by the public and private non-profit sectors. This situation is recognized in changes sought by Council to Section 5 of the City of Toronto Act, which provides the legislative basis for the existing 25% assisted housing density bonus. (See Appendix 4 to this report for a copy of the proposed legislation.)

ii) The existing assisted housing density bonus is valuable to public and private non-profit producers in that it reduces their per unit land costs relative to producers of market housing. Amendments to the City of Toronto Act sought by Council would also permit, in addition to density increases, "exemptions or reductions, or both, from the zoning standards and provisions otherwise applicable to similar forms of housing accommodations which are not part of a social housing program." Such considerations are particularly important to assisted housing producers since the MUPS (Maximum Units Prices) established by the Province do not take into account high land and construction costs in the City.

iii) Although valuable to the public and private non-profit sectors, the existing 25% assisted density bonus policy has a limited usefulness in promoting private sector investment in assisted housing. In fact, the existing bonus is really usable only where it is possible to allocate a portion of a private development site to a assisted housing producer and/or operator. Even in these limited instances, the existing policy provides very little incentive.

iv) Increases in height and/or market residential or commercial density on-site in exchange for the provision of land for assisted housing and/or a cash payment, as authorized by Section 36 of the Planning Act, 1983, can be and have been used to provide real incentives to promote and secure private sector contributions to the production of assisted housing. Land and funds for the acquisition of land and buildings achieved in this way have, in fact, become critical to the ability of non-profit producers to use provincial unit allocations,

given the insufficiency of the MUP's in the Toronto land market.

v) Current use of density incentives to secure assisted housing highlights the difficulty, noted in the 1981 planning report Confronting the Crisis, of determining an appropriate relationship between the size of a density incentive and the cost of providing a public benefit. This issue must be addressed if initiatives such as those included in Table 3 of Appendix 1 are to be pursued more effectively. The bonus system proposed for the Part II Plan for the BCED Block (Front, Bay, Wellington and Yonge Streets), which includes an assisted housing bonus, provides a useful example of how such relationships can be formulated.

6. Options for New Planning Policies to Promote Private Sector Involvement in the Provision of Assisted Housing: Incentives vs. Exactions vs. Increased Public Funding

6.1 Incentives vs. Exactions

Preceding sections of this report have discussed the evolution of the 25% assisted housing bonus to include arrangements to secure land and cash-in-lieu payments pursuant to Section 36 of The Planning Act. In identifying policy options to more effectively and consistently harness the resources of the private sector, options which are consistent with current practice should be given serious consideration.

There is another category of options, however, which involves the exaction of assisted housing contributions, as opposed to the provision of incentives to encourage such contributions. While incentive policies rely on the voluntary decision of private developers to meet certain specified requirements in order to achieve height or density increases, exactions policies, such as parks levies under Section 41 of the Planning Act, rely on compulsory requirements to achieve specified objectives.

The use of such compulsory requirements, specifically levies, has been considered from time to time. For example, the 1982 planning report Confronting the Crisis recommended a further report on "a form of development levy to be applied to commercial and condominium residential developments, which would fund land and building acquisition and write-down to permit transfer to assisted housing sectors." (Recommendation No. C1, page 39.) This recommendation specifically responded to a proposal in the accompanying Housing Department report Building Challenges that a financial contribution by the City might be an appropriate source

of revenue for the write-down of land costs required to permit the development of assisted housing at a reasonable cost.

The opinion expressed in Confronting the Crisis was that "the major difficulty with any major financial commitment on the part of the City is its lack of a progressive tax source." It was felt that a levy on new commercial and condominium development would be a more progressive instrument than the property tax, which "entails the risk of regressive impact." The report also noted that new enabling legislation would have to be pursued to clearly permit such a levy, and that, in addition, consideration should be given to its possible economic implications.

No detailed report on the implementation of a housing levy has been submitted, primarily because of the complications associated with obtaining explicit legislative authority, as well as concern that the economic impacts of the levy might be undesirable. However, I did submit a report, dated January 15, 1985, on the use of levies on new office development in San Francisco's Office-Housing Production Program. This report did not recommend any course of action for Council, and was received for information.

The fact that, except for a period between November 10, 1976 and October 24, 1978, the City has not had in force a general by-law to impose parks levies in accordance with Section 41 of the Planning Act suggests some reluctance on Council's part to use levies as a means of achieving public benefits. (On two occasions site-specific Section 41 requirements were imposed in the context of rezoning applications.) In addition, specific concerns respecting the use of levies were identified in the April 7, 1987 Final Report of the Hotel Tax Committee.

Notwithstanding this previous reluctance respecting the use of levies or other compulsory requirements, it is appropriate and useful to consider options of this kind as a means to achieve private sector involvement in the provision of assisted housing. Although the issue of legislative authority is a real one, considerable work has been carried out at the provincial level during the past few years on the matter of municipally imposed lot levies or compulsory development charges to recoup growth-related capital costs.

In fact, in 1985, the Minister of Municipal Affairs established a working group made up of representatives of municipalities, the development industry and home builders to deal with this complex and controversial matter. The final report from this working group noted that consensus could not be achieved on all aspects of the issue, and requested that the Ministry prepare draft proposals or legislation as a basis for further consideration. Such draft

legislation and/or other discussion material, when made public, could provide a basis for pursuing compulsory assisted housing requirements. In fact, the City Solicitor is of the opinion that, on the basis of a broad interpretation of existing legislation, Council could pursue an exactions approach now if it wished, although the question of legislative authority would undoubtedly be an issue.

In view of the preceding considerations, and for purposes of clarity, the options discussed below have been divided into two categories - incentives options, such as density bonuses, and exactions options, such as compulsory housing requirements or assisted housing levies. This fundamental distinction is relevant not only because the City's current policy and practice, but also because of the different situations respecting legislative authority applicable to each category of options.

6.2 Increased Public Funding Through an Earmarked Surcharge on the City's Property Tax Base

Before reviewing the two categories of options described above, it is important to note that while they differ in terms of the degree to which each assumes that the private sector should be obliged to contribute to the provision of assisted housing, they also share a fundamental policy assumption. That is, all of the incentives and exacting options identified and discussed assume that it is appropriate and desirable to look to the private development industry for direct contributions to the provision of assisted housing which are additional to contributions made by that sector through the payment of taxes. Nothwithstanding past and current practice in the City, it could be argued that funding for assisted housing should not be so development-dependent, regardless of whether this dependence takes the form of an incentive or a levy.

From this perspective, it might be additionally argued that if Council wishes to supplement the assisted housing funding available from other levels of government, it should do so out of public revenues generated by a special surcharge on the property tax.

It is, of course, impossible to entirely sever the connection between private development activity and public expenditures, particularly at the local level, where municipal revenue is derived from the taxation of property. However, the generation of additional funds for assisted housing through an earmarked surcharge on the property tax base would exert less pressure on specific land use planning decisions than more narrowly based developer-dependent approaches, such as density bonuses and development levies.

One way of demonstrating the implications of this alternative surcharge approach is to estimate the size of the surcharge required to generate the $10,000,000 in land and cash payments to be acquired as the result of the Part II assisted housing bonus recommended for the Front-Yonge-Wellington-Bay block (the block proposed to be developed by BCED).

The total property taxes collected in the City in 1987 were $1,099,000,000. This amount would have had to be increased by about 0.9% in order to generate an additional $10,000,000 in that year. Since typical 1987 taxes for a single family home assessed at $5,000 were $1,539, a special surcharge to achieve the 0.9% increase would have meant an additional $13.85 on the tax bill for a typical single family home.

This illustration is obviously extremely simplified, but it does provide some reference point for considering a broader base for the generation of assisted housing funding. It should be noted, however, that in order to achieve this broader base so as to distance planning decisions from decisions respecting public revenues and expenditures, it would be necessary, given existing legislation, to tax existing residential ratepayers, many of whom might well be suffering from the shortage of affordable housing themselves. It is primarily for this reason that this report does not recommend that the tax surcharge approach be pursued.

7. Incentives Options

7.1 Background and General Comments

Density bonusing, or incentive zoning as it is sometimes called, is a technique for encouraging private developers to provide public benefits by offering them extra income-producing development potential in exchange. The use of this technique originated in the U.S., where planners and municipal officials could not rely on comprehensive planning legislation such as that enacted in European cities after World War II. Consequently, they turned to the provision of incentives as a means of promoting investment in the public aspects of private development, and of securing the provision of public benefits without the expenditure of public funds or a degree of regulatory intervention considered politically unacceptable. In order to ensure consistency, and because in most U.S. cities official plans have no legal status, such density incentives are usually made available as-of-right in comprehensive zoning ordinances.

The earliest use of zoning incentives dates from the 1950's, with the first instance probably being contained in the 1957 revisions to Chicago's general zoning ordinance. Although many U.S. cities

adopted similar provisions, none embraced incentive zoning as enthusiastically as New York City in its 1961 zoning ordinance. (The extensive use of plaza and arcade bonuses, Special District and Special Permit incentives, and other incentive rezonings and variances is catalogued and evaluated in a 1978 cost-benefit study prepared by Jerold S. Kayden for the Lincoln Institute of Land Policy.)

The excessive and inadequately uncontrolled use of density bonuses in New York City, particularly the infamous plaza bonus, is perhaps largely responsible for the suspicion with which density incentives are often regarded. In addition, an increased acceptance in North American cities of design review and other regulatory controls has meant that architectural and urban design standards, once considered attainable only through the use of incentives, are now often imposed.

Despite the criticisms that their use - or misuse - has provoked, density incentives remain a valuable planning tool in private market economies. Even Jerold Kayden, whose above-noted 1978 cost-benefit study of New York City bonusing is frequently cited as evidence of the negative impacts of density bonusing, notes the advantages of incentive zoning as a method of land use control, particularly the degree of flexibility it adds to what is essentially a static and negative regulatory tool.

Although originally used to promote good architectural and urban design and to secure the provision of physical amenities, density incentives are now used in many North American cities to protect land uses which are under pressure from the private market, such as heritage structures, open spaces and low income housing; to achieve specific land uses, such as street-related retail, cultural facilities, and downtown residential development; and to obtain the provision of social services, such as daycare centres or non-profit health facilities. In addition, a number of U.S. cities offer density bonuses in exchange for the rehabilitation or construction of low income housing, with the option of making a cash-in-lieu contribution to a housing trust fund. Recent examples of such affordable housing bonuses are found in Hartford, Miami, Seattle and New York City.

Toronto's Official Plan contains three policies which are generally referred to as density bonuses: the 25% assisted housing bonus discussed in this report; density exemptions in Mixed Commercial-Residential Areas and a 10% density increase in Residence Areas in the Central Area for community services and facilities; and a heritage bonus which permits the gross floor area of a designated building or portion thereof which is retained

in a development to be exempted when calculating the density of the development.

The first two of these policies do not really provide market incentives, since they do not provide for any extra density beyond that required to accommodate the assisted housing or community service or facility. Although the heritage bonus allows for extra density, the amount is limited to the gross floor area retained, up to a specific maximum, which varies with the land use designation applying to the site. These policies thus differ from the typical bonus policies used in other North American cities, which rely on the provision fo real market incentives.

As discused in previous sections of this report, notwithstanding the very limited number of bonus policies set out in its Official Plan, Council has used the rezoning and Official Plan amendment process in order to achieve public benefits, including assisted housing, an approach can be considered a flexible, site-specific use of density incentives.

7.2 General Advantages and Disadvantages of Incentives Approach

The advantages and disadvantags of specific incentive options are set out in Section 7.3 below. However, before considering these, it is useful to first look at the pros and cons of the use of density incentives in general.

Advantages of Incentives Approach

i. The provision of carefully defined incentives can help to turn an essentially regulatory and inflexible planning tool into a more positive and flexible instrument for achieving public objectives without direct public expenditure.

ii. Because the incentives approach recognizes the profit aims of private developers, incentive strategies are usually accepted by the development industry.

iii. The use of density incentives is consistent with current practice and, in particular, with the evolution of the City's use of incentives to achieve private sector investment in assisted housing.

iv. If the provision of incentives to promote private sector involvement in assisted housing and other

public objectives is clearly acknowledged as a planning technique, with particular attention to the relationship between the size of the bonus and the amount of the public benefit provided, the use of density incentives could bring increased consistency and certainty to the City's response to requests for increases in height and density.

v. There is no need to seek special enabling legislation since Section 36 of The Planning Act explicitly authorizes the use of height and density incentives as a planning strategy.

Disadvantages of Density Incentives Approach

i. The use of density or other incentives could be seen as undermining the integrity of underlying planning controls as the result of varying these controls in exchange for the provision of a public benefit.

ii. If used too extensively, and if the size of the incentive is not adequately controlled, the provision of density incentives could result in overdevelopment, and/or the proliferation of benefits of dubious value.

iii. Difficulties may be encountered in defending, on planning grounds, a level of development achieved through the utilization of density incentives.

iv. The determination of an appropriate relationship between the size of the incentive offered and the cost of providing the benefit is difficult.

7.3 Specific Assisted Housing Incentives Options

A density incentives approach to promoting private sector invovlement in assisted housing could be pursued in a variety of ways and circumstances. The advantages and disadvantages of the specific incentives options considered appropriate for consideration are set out below.

7.3.1 INCENTIVES OPTION 1: Negotiated Site-specific Amendments to the Official Plan and Part II Official Plans for Major Developments

As discussed in Section 3 above, initiatives based on this approach have been considerably more effective than the existing

25% bonus. An endorsement of this first incentives option would thus represent a clear acknowledgement of the value of current practice as a basis for more sustained efforts of the same kind.

It is also interesting to note that this first option is similar in many respects to the increasing use of development agreements by U.S. municipalities. A growing number of states have enacted legislation, modelled on California's 1979 Development Agreement Act, which permits local municipalities to enter into agreements with private developers whereby the municipality agrees not to alter agreed-upon land use regulations in exchange for the provision by the developer of specified public benefits.

For a municipality, the primary attraction of these agreements, like that of negotiated Official Plan Amendments in Toronto, is the flexibility they provide for negotiating in the context of a specific development proposal. (U.S.-style development agreements are of course valued by developers because of the long-term certainty they provide. It was, in fact, the desire for such certainty on the part of private developers that ultimately led to the enactment of the original California legislation.)

Advantages of Incentives Option 1

i. The effectiveness of this approach is clearly illustrated by the developments and assisted housing contributions listed in Table 3 of Appendix 1.

ii) The flexibility of this approach makes it possible to respond to opportunities as they arise, and to tailor the details of a particular arrangement to the possibilities provided by a specific development project.

iii. Since this approach involves Official Plan and Zoning By-law amendments, its flexibility can be achieved while maintaining a high level of regulatory planning control, including a statutory process for review by the public and the relevant government agencies and officials.

Disadvantages of Incentive Option 1:

i. Because this approach relies on amendments to the Official Plan, it generates uncertainty regarding the City's objectives and intentions.

ii. It is difficult to ensure that private developers are treated equitably and consistently when proposed amendments are reviewed and negotiations are carried out on a site-specific basis.

iii. The process of negotiating developments can be time-consuming and can require very extensive participation by professional staff.

Possible Mitigation of Disadvantages of Incentives Option 1

One way to mitigate the disadvantages noted above, i.e., the lack of certainty respecting Council's objectives and intentions, the possibiilty of inconsistencies and inequities and the time and staff resources required, is to add general statements to the Official Plan which would provide a context for the development of area-specific policies and for site-specific negotiations. Such statements could establish general criteria for determining whether, and in what circumstances, a particular benefit should be bonused, and could also set out the specific factors and guidelines to be taken into account, both when formulating a site-specific provision and when developing policies with a more general application.

7.3.2 INCENTIVES OPTION 2: On-Site Increases In Market Residential Density In Exchange for On-Site Accommodation of Assisted Units

As noted in Section 2.1 of this report, the South of Carlton Part II Plan includes a "strengthened" assisted housing density bonus, pursuant to Section 5 of the City of Toronto Act, which allows Council to pass by-laws to permit an increase in market residential development beyond that permitted by the Zoning By-law, in exchange for the inclusion on the site of an equal number of assisted housing units. The eight assisted units at 17-23 Pembroke Street (Item No. 7 in Table 1 in Appendix 1) were achieved through this policy. Incentives Option 2 would provide for similar bonuses elsewhere in the Central Area.

This option is also similar in concept to the approach followed in the Official Plan amendments applying to 1001 Bay Street, 1055 Bay Street, and 30 St. Patrick/29 McCaul Street (Item nos. 2, 9 and 10 in Table 3 in Appendix 1). The possibility of using this approach

more rigorously than in the developments referred to in Items 2, 9 and 10 in order to achieve a more substantial assisted housing contribution relative to the value of the extra density achieved should be considered. For example, such a policy could be formulated to provide one additional market unit for every assisted unit accommodated on the development site, up to an appropriate maximum.

Advantages of Inventives Option 2

i. Once the policy is in place it would provide a real incentive for the allocation of a portion of the site for assisted housing.

ii. It does not require the acquisition of another site in order for a developer to realize the incentive.

iii. It provides for a mix of market and assisted housing on a single site.

iv. The use of this approach, where appropriate, could help to ensure a more balanced relationship between the value of the extra density achieved and the public benefits provided.

Disadvantages of Incentives Options 2

i. It would be useful only where it is possible to allocate a portion of a larger site for an assisted housing development, and where the remainder of the site is capable of accommodating the increase in market units, in addition to the development permitted as-of-right.

ii. The application of such a policy to an area or site which is already zoned to the maximum permitted in the Official Plan, and where an increase in development potential is not considered desirable, would require an initial reduction in the maximum density permitted on a site.

iii. In view of i) and ii), such a policy probably would be appropriate only in the context of an area or site-specific planning study.

7.3.3 INCENTIVES OPTION 3: Increases in Density On-site in Exchange for the Provision of Land for Assisted Housing Off-site, With a Cash-in-lieu Option

Under this option, new assisted housing bonus policies for Mixed Commercial-Residential Areas would be added to the Official Plan to supplement the 25% bonus already available. Such policies could allow Council to authorize on-site density increases up to a specified maximum, in exchange for the provision of a specified amount of land off-site for assisted housing purposes, with a cash-in-lieu option. If corresponding provisions were included in the Zoning By-law, the new bonus could be made available as of right without the necessity of site-specific rezonings.

General Advantages and Disadvantages of Incentives Option 3

This option could actually be implemented in a variety of ways, depending, for example, on whether the density increases permitted were commercial or residential, and on the areas in which the bonus would apply. While the various applications of this approach have the same general disadvantages and advantages, particular forms of it have their own specific pros and cons. Consequently, in identifying disadvantages and advantages, the general policy approach is assessed first, followed by brief assessments of specific ways in which this general approach could be pursued. The comments included in Section 7.2 regarding the use of density incentives in general are also relevant, of course.

General Advantages of Incentives Option 3

i. If taken up by developers as a less complicated and time-consuming way to obtain extra density than the current procedure of negotiating Official Plan amendments, the use of explicit incentives policies could generate increased private sector contributions to the provision of assisted housing.

ii. If appropriately drafted, new bonus policies along these lines would increase the level of certainty and consistency by establishing at the outset the relationship between the extra density to be granted and the size of the assisted housing contribution required in exchange.

iii. The relationship between the density increase and the size of the assisted housing contribution could possibly provide a guide or benchmark in determining the extent of other public benefits to be provided in the context of applications for Official Plan amendments.

iv. In view of ii and iii, this approach would be less demanding in terms of time and staff resources than Incentives Option 1.

General Disadvantages of Incentives Option 3

i. The provision of land off-site as a condition of the increase in height and/or density brings with it the difficulty of developing clear criteria for evaluating proposed assisted housing sites.

ii. There is a limited supply of appropriate sites to be provided for assisted housing purposes.

iii. There might possibly be an inflationary impact on the housing market as the result of increased competition among private developers seeking sites for bonus purposes.

If, after an assessment of the general advantages and disadvantages set out above, a new density bonus policy along these lines were considered desirable, it would then be necessary to determine whether residential or commercial bonuses should be offered, and where the bonuses should apply (i.e. in all Mixed Use Areas? inside the Central Area only? on large sites only? etc.). In particular, the following issues would have to be taken into account.

Planning Issues Raised by Incentives Option 3

i. consistency with mixed-use and housing objectives

The general availability of commercial density bonuses in Low, Medium and High Density Mixed Commercial-Residential Areas in exchange for the provision of land for housing at a different location could call into question the mixed-use objectives of the Official Plan, particularly if the increase in commercial density were accompanied by a decrease in residential potential. In addition, the availability of commercial bonuses to private housing producers in mixed-use areas could put non-profit producers at a pronounced disadvantage in bidding for sites, despite the competitive edge provided by the existing 25% bonus; although, if this approach were successful, it would generate sites which would be available to non-profit producers through an allocation process.

ii. consistency with objective of providing assisted housing in private developments

Although there are no explicit policies in the Official Plan advocating the integration of assisted and market housing developments, the existing assisted housing bonus implicitly supports such a mixture. In addition, the desirability of ensuring a mix of incomes, households and housing types in assisted housing developments is inherent in federal and provincial programs. The provision of density bonuses on a development site in exchange for assisted housing at a different location could lead to a certain segregation of assisted and market housing developments. However, the scarcity of large housing sites, the desirability of all of the City's residential neighbourhoods and the mix of incomes inherent in existing programs mean that this possible consequence should not be given undue weight.

iii. uncertainty respecting existing residential density limits in mixed use areas

As discussed in Section 2.4 of this report, as the result of recent amendments to the Official Plan and Zoning By-law, there are now two options for calculating residential densities in Low, Medium and High Density Mixed Commercial-Residential Areas. The existence of these two options has led a number of developers to pursue Official Plan amendments to permit a combination of these two approaches, i.e. the relatively unrestricted gross floor area available under the UPH (units per hectare) option, combined with the increased number of units available under the FSI (floor space index) option. In view of the resulting uncertainty respecting residential density limits, the 1986 OQR calls for a review of this issue. A new residential bonus which is made generally available would have to deal with the problems associated with this issue or with any residential density revisions considered appropriate to address them.

8. Exactions Options

The options examined in this section differ from those discussed in Section 7 is that they would be compulsory. That is, unlike Incentives Option 1 they would not be negotiable, and unlike Incentives Options 2 and 3, they would not be optional.

8.1 Background and General Comments

Origins of Compulsory Housing Requirements:

The use of exactions, including compulsory housing requirements and development levies to achieve affordable housing, has become increasingly prevalent in U.S. cities. This practice can be

linked to efforts in U.S. cities in the 1970's to replace "exclusionary" zoning ordinances, which limited housing opportunities for low-to-moderate income households, particularly in the suburbs, with "inclusionary" zoning ordinances, which would ensure that new residential development included units within the reach of all income categories. One of the primary arguments used to support inclusionary zoning is the need to provide housing accommodation for the low-to-moderate income employees of new commercial and industrial development. In other words, the use of inclusionary zoning provisions was, to a large extent, based on maintaining an appropriate balance between employment and housing opportunities.

As the inclusionary zoning movement expanded, attention became increasingly focussed on the responsibilities of industrial and commercial, rather than residential, developers, on the grounds that it is non-residential development which produces the jobs which generate the demand for affordable housing. This logic was central to the efforts of California cities to tie the granting of commercial development permissions to contributions by the developer to the provision of affordable housing. The vehicle for requiring these contributions was the 1976 California Environmental Quality Act, which allowed a project to proceed without an environmental impact review if its major impacts were mitigated. Housing impact was one of the factors to be reviewed, and California cities began to allow this housing impact to be mitigated by the payment of an in-lieu fee for the provision of affordable housing. Subsequently the California Environmental Quality Act has been amended to limit its scope to impacts on the physical enivironment only, and to eliminate it as a statutory basis for housing impact programs. However, its application for this purpose helped to generate considerable support for housing impact fees.

Such housing impact fees have come to be known as "linkage" levies, since they are based on the linkage between commercial development and the demand for affordable housing. San Francisco's "Office-Affordable Housing Production Program", which was the subject of a planning report to the Neighbourhoods Committee dated January 14, 1985, is probably the most widely publicized example of the application of such levies. However, similar linkage programs are in place in other U.S. jurisdictions, including Boston, where the term "linkage" to describe these programs was coined; Santa Monica, where the first such program was put in place; Montgomery County, Maryland; Dade County, Florida; and Atlantic City, New Jersey. Similar programs are under consideration in other U.S. cities. Several U.S. cities, including New York and Seattle, which have instituted affordable housing bonsues, have formally rejected the use of linkage levies.

Part of a General Move to Impact Fees

The kinds of compulsory housing requirements and levies discussed briefly above can be seen as part of a larger shift, particularly in U.S. cities, to the financing of a broader range of infrastructure and services through development impact fees or lot levies. To a certain extent, current reliance in U.S. cities on housing levies and other impact fees reflects the reduced financial resources of U.S. municipalities as the result of cutbacks in federal housing programs and municipal transfer payments, and local "tax revolts", such as that leading to the enactment of Proposition 13 in California. This U.S. context should be kept in mind in evaluating the possibility of introducing housing or other levies or exactions in Toronto.

In considering the San Francisco or any other U.S. example, it is also important to note that the term "affordable housing" as used in the U.S. is a more general term than "assisted housing." In the U.S. the word "affordable" is used with reference to the maximum housing costs for various levels of household incomes as established by the U.S. Department of Housing and Urban Development (HUD). Generally speaking, a developer can qualify as producing affordable housing if the housing is made available at a price which is considered affordable to a designated income range, as the result of either direct subsidies by the developer, or reduced standards which lower the cost of production. In the case of San Francisco's program, it is not clear that controls are consistently placed on the housing which initially qualifies as "affordable" in order to ensure that it continues to qualify as such.

8.2. Legislative Authority for Levies or Other Assisted Housing Exactions

Although Section 41 of The Planning Act does allow levies for parks purposes, and the Municipal Act effectively allows for levies for some municipal purposes in certain situations, there is no clear legislative authority which would permit Council to impose compulsory assisted housing requirements or levies on private developers.

If Council decides that it wishes to obtain explicit legislative authority to permit housing exactions, possibly in the context of the lot levy legislation presently under consideration by the Province, as discussed in Section 6 above, a clear policy rationale should be developed to support the request and to withstand opposition from the development industry. For example, it would probably be necessary to establish that such exactions are required to help cover municipal capital costs generated by

the development being levied. In particular, the rationale would probably have to demonstrate that development is not being levied simply in order to subsidize the general tax base. (San Francisco's OAHPP, for example, is supported by a comprehensive economic and marketing analysis of the relationship between office development and the housing market.)

Information contained in OQR Background Paper No. 7, "Central Area Travel Patterns", suggests that increases in office space in the Central Area, particularly the Central Core, are linked to decreases in the stock of affordable housing. As documented in that report, the largest relative increase in employment over the ten year period 1971-81 occurred in the Managerial and Professional categories, which more than doubled their presence during this period. The report also finds that, based on the kinds of work trips originating in the Central Area, there has been "a general tendency for High-income White Collar workers to have increased their presence at the expense of the lower-income groups through the gentrification process". (OQR Background Paper No. 7, page 27).

Finally, OQR Background Paper No. 7 documents the fact that, despite the rapid increase in managerial and professional office workers, clerical workers are still the largest employment group in the office sector. As the City's supply of affordable housing shrinks, these low-to-moderate income employees will be forced to find affordable housing outside the City, creating problems not only for themselves, but also for employees who need their services and for the transportation system required to accommodate the resulting commuting patterns.

Taking these factors into account, it may be possible to quantify the impact of new office development, including that now permitted by the Official Plan, on the affordable housing stock and the related need for assisted housing to the extent necessary to justify the imposition of an assisted housing levy on new office space. A levy on luxury condominium development might also be considered, as suggested in the 1982 planning report Confronting the Crisis (page 37). The issue is obviously complex, however, and more research and analysis would be required to determine the strength of a case for an assisted housing levy or levies, as well as the appropriate size of any such levy.

8.3 General Advantages and Disadvantages of Exactions Approach

The specific exactions options considered are each characterized by specific advantages and disadvantages. However, the advantages and disadvantages of the exactions approach in general, in

comparison to an incentives approach, can be summarized as follows.

Advantages of Exactions Approach

The primary advantages of an exactions approach, particularly as compared to an incentives approach, are:

i. effectiveness and consistency in generating land and/or money for assisted housing at the local level without increasing property taxes; and

ii. separation of planning and financial considerations so that decisions respecting the regulation of development can be based more clearly on planning and urban design grounds.

It should be noted at the outset that this second advantage might in fact be less clear-cut than first appears. In the first place, the imposition of an assisted housing levy would not prevent applications for Official Plan and Zoning By-law amendments, and unless levies were introduced for each public objective now pursued in the context of such applications, negotiations would still likely take place with respect to other public benefits. In fact, to the extent that a levy made development more costly, it might prompt more applications for increased density and other variances to reduce development costs, or could generate pressure to increase densities generally.

In the second place, it is conceivable that the City's approval of developments, particularly those requiring rezonings or Official Plan amendments, could be challenged on the basis that the approval was motivated by the desire for the assisted housing levy it would generate. The larger the development, of course, the greater this payment would be. Boston's first attempt to impose a linkage levy was in fact opposed on such grounds.

Disadvantages of Exactions Approach

The main disadvantages of this approach can be summarized as follows:

i. the delay before assisted housing contributions could be achieved because of the need for special legislation;

ii. the complexity of the background work required to support a request for new legislation; and

iii. the probable resistance of the private sector. Such resistance would likely be particularly strong in that the introduction of compulsory assisted housing requirements would represent a relatively dramatic departure from current practice, which relies on negotiation, compromise and co-operation to promote private sector involvement in the provision of assisted housing.

8.4 Specific Exactions Options

8.4.1 Land or Cash Requirement as Condition of Any Official Plan Amendment, Calculated as a Fixed Percentage of the Size or Value of the Amendment

Under this approach, the City could adopt a policy requiring any developer who obtains an Official Plan amendment to provide land sufficient to accommodate an amount of assisted housing equivalent to a fixed percentage of the extra density gained through the amendment, with a cash-in-lieu option. A variant of this approach would be a requirement that any developer who obtains an Official Plan amendment must provide land or a cash contribution for assisted housing purposes equivalent to a fixed percentage of the economic value of the amendment.

This first option appears to be quite similar to an incentives approach, particularly the provision of incentives through negotiated Official Plan amendments. However, there is a fundamental difference in the two options. The exactions approach relies on Council's authority to require a specific assisted housing contribution, regardless of any planning considerations related to the amendment. An incentive, on the other hand, including a negotiated one, is offered and may be voluntarily taken up by the developer.

Advantages of Exactions Options 1

The primary advantages of this option are:

i. its simplicity, and

ii. in the case of the version based on the value of the Official Plan amendment, the consistency with which all applicants for amendments would be treated as the result of the establishment of a clear "price" for any Official Plan amendment,

without reference to the purpose or effect of the amendment.

Disadvantages of Exactions Option 1

The first variant - the required conveyance of land sufficient to accommodate assisted units equivalent to a fixed percentage of the increased density - would be:

i. difficult to apply to commercial density increases; and

ii. inherently inequitable, since the value of a density increase varies with the use - commercial being generally more valuable than residential - and location.

The second variant - a requirement based on a fixed percentage of the economic value of the amendment - is essentially a capital gains tax, and hence the chances that the City would be granted legislative authority to implement it are slight.

8.4.2 EXACTIONS OPTION 2: Assisted Housing Requirement or Impact Levy for Non-residential Development

This option would involve the imposition of a specific assisted housing requirement, with a cash-in-lieu option, or an outright cash levy, on certain specified classes of non-residential development, based on the assumption that the non-residential development to be subject to the requirement has a quantifiable impact on the need for assisted housing. The size of the requirement or levy would be based on an approximate quantification of this impact.

Advantages and Disadvantages

The advantages and disadvantages of this option, which include the possibility of an office-housing levy such as that in place in San Francisco, are essentialy those set out in Section 8.3 above for all exactions options. It should be noted, however, that a major factor in developing an assisted housing levy or requirement under this option would be the determination of the kinds of non-residential development to be levied, i.e. office, industrial, retail and institutional, etc., as well as the size of the levy, i.e. the number of units to be accommodated or the specific fee to be paid. The possibility of levying only developments above a certain size could also be considered. The San Francisco levy, for example, is imposed only on office development over 50,000 square feet.

This second Exactions Option differs from Exactions Option 1 in that the levy would not be formulated as a simple tax, but would be based on a demonstrable impact on the need for assisted housing caused by the land use to be levied.

8.4.3 EXACTIONS OPTION 3: Assisted Housing Requirement or Impact Levy for Extra Non-residential Density Achieved Through Official Plan Amendments

Under this option an assisted housing levy as described in Section 8.4.2 above would be imposed on only the extra density achieved through an Official Plan amendment.

Advantages and Disadvantages of Exactions Option 3

Again, the advantages and disadvantages of this option are generally the same as those set out in Section 8.3 above. However, there are several other considerations respecting this option which should be considered as well.

Advantages of Exactions Option 3

i. Because the requirement would apply only to extra non-residential density achieved through an Official Plan amendment, it might be more acceptable to the private sector than Exactions Option 2.

ii. Once in place, this kind of exaction would be more dependable and probably would involve less negotiation than a non-residential density bonus.

iii. This option could possibly discourage applications for Official Plan amendments for extra non-residential density, since these would be in a sense "penalized" by the compulsory assisted housing requirement, although, as noted previously, the desire to achieve the levy could become a factor in approving the amendment.

Disadvantages of Exactions Option 3

i. possible difficulty in developing a rationale to explain why only extra non-residential density is to be levied; and

ii. relative to a levy which was not restricted to the non-residential development permitted by an Official Plan amendment, this option would probably

generate less substantial private sector investment in assisted housing.

EXACTIONS OPTION 4: Assisted Housing Requirement for Levy on Luxury Residential

This option would involve the imposition of an assisted housing requirement or levy as described in Sections 8.4.2 and 8.4.3 above on luxury or high income residential, instead of non-residential development. It could, in fact, be structured as a form of "inclusionary zoning" provision requiring a mix of market and assisted housing in residential developments.

Advantages of Exactions Option 4

i. A requirement that all residential developments contain a mix of market and assisted units would further the objective of integrating low-to-moderate income housing with other residential developments.

ii. If such a requirement were imposed only in the context of Official Plan amendments to achieve higher residential densities it might reduce the number of amendments involving combinations of the FSI/UPH density options.

Disadvantages of Exactions Option 4

i. It would probably be difficult to achieve clear legislative authority to pursue this option, particularly if it were structured as a requirement or levy on luxury residential development, as opposed to a zoning strategy, since the provision of new high income housing arguably takes pressure off existing affordable housing.

ii. It would be difficult to determine what housing developments qualify as luxury or high income, particularly in the central city, where location, as opposed to construction costs alone, put new housing into a high income category.

9. Proposed Course of Action

9.1 Summary of Objectives for Evaluation of Options Included in Sections 7 and 8

Before drawing any conclusions respecting the options discussed in Sections 7 and 8 of this report, it is useful to identify the objectives which are to be served by pursuing one or more of these options. In general terms, the primary objective, and the one which led to the production of this report, is to more effectively promote private sector investment in assisted housing. Other considerations have been identified in the report, however, which also should be taken into account in pursuing this primary goal. Consequently, I would summarize the objectives to be used in the evaluation of the options described in Sections 7 and 8 as follows:

i. the achievement of increased private sector investment is assisted housing in a manner which:

   a. is clearly sanctioned by appropriate enabling legislation;

   b. supplements but does not substitute for funding from other levels of government; and

   c. is consistent with the underlying principles of the Official Plan; and

ii. the introduction of greater certainty and consistency into the process whereby public benefits, including assisted housing, are achieved.

I have been guided by these objectives in terms of both the identification and evaluation of specific incentives and exactions options.

9.2 Recommended Actions

After reviewing the options discussed in Sections 7 and 8, and having consulted with the Commissioner of Housing, the City Solicitor, the Commissioner of Finance and staff of the Ministry of Municipal Affairs, it is my view that the careful use of height and/or density incentives, as authorized by Section 36 of the Planning Act, is a reasonable and appropriate means for promoting increased private sector investments in assisted housing. This approach is consistent with current practice, which also demonstrates its effectiveness. It is also permitted by existing legislation and provides a reasonable means for working co-operatively with the private sector to achieve much needed assisted housing.

Notwithstanding my support for the prudent use of incentives, I do not see any inherent contradiction between the use of height and/or density incentives, and a possible assisted housing levy on certain classes of non-residential development, should Council decide it wishes to pursue such an option. Assuming an assisted housing requirement were to be imposed, similar in structure to the park levy permitted by Section 41 of the Planning Act, any extra density achieved through a density bonus would be subject to this requirement at the same rate as development permitted as of right.

Based on these considerations, my proposals for specific actions are summarized below.

9.2.1 Proposed General Official Plan Policy Statements Regarding the Use of Incentives to Achieve Public Benefits, Including Assisted Housing, In Order to Provide a Context for Both General Policy Initiatives and Site-Specific Applications

Although the combination of flexibility and regulatory control which characterizes the negotiated amendment process has been noted, the use of this approach has led to some uncertainty respecting Council's intentions, as well as concern about consistency in the treatment of different landowners.

At one extreme these concerns could be addressed by simply stopping the practice of securing public benefits, including assisted housing, through negotiated amendments. At the other extreme, Council could establish a schedule of public benefits to be bonused, including the precise bonuses to be made available for each benefit in each of the land use districts where these provisions would apply. (Bonuses of different sizes would be required for different land use districts and areas because the value of the extra or bonus density would vary from one location to another, while the cost of providing a particular public benefit would remain relatively constant).

The first alternative would represent a fairly dramatic departure from current practice. In addition, it is not clear that such an extreme solution is either practical or desirable.

Although the greatest certainty and consistency could probably be achieved by pursuing the second alternative - i.e., a comprehensive bonusing system like that in place in many U.S. cities - this solution has two serious shortcomings. First, it would require extensive background work leading to complex and possibly contentious revisions to the Official Plan.

Second, an incentives approach which spells out in advance exactly how much extra density is to be provided in exchange for exactly what amount of a public benefit is not appropriate in terms of all the public benefits which Council has achieved - or may wish to achieve in the future - through the use of negotiated Official Plan and Zoning By-law amendments. For example, it is not an effective mechanism for achieving one-of-a-kind public benefits, such as the design centre to be secured in a Section 36 agreement respecting the Toronto Stock Exchange development. It is also unsuited to public benefits Council may wish to secure in certain situations but not in others, such as park space or major pedestrian connections like the pedestrian bridge secured in the context of the World Trade Centre Part II, and the tunnel to Union Station to be secured through the development of the BCED block.

In view of these considerations I am recommending that general statements, along the lines set out in Appendix 7 to this report, be added to Section 8 - "Implementation" - in order to:

i. set out Council's intention to use height and/or density incentives as a means of promoting private sector involvement in the realization of Official Plan objectives, including assisted housing;

ii. identify criteria for identifying specific benefits to be bonused; and

iii. identify factors to be taken into account in determining the nature (commercial or residential) and size of the incentive to be offered.

In drafting these proposed statements, I have reviewed the provisions of agreements between the City and private developers which explicitly refer to Section 36 of the Planning Act, as well as the principles for such agreements which have been authorized by Council but not yet executed. The first category involves the Massey-Ferguson and World Trade Centre developments, as well as developments proposed and under construction respectively at 70-92 King Street East and 108 Chestnut Street. The second category includes the Toronto Stock Exchange, the BCED development proposal for the York/Front/Bay/Wellington block; and the development proposed for 248 Simcoe Street and 434, 444 and 454 University Avenue.

A review of these executed and proposed agreements indicates that the facilities, services and matters in exchange for which height and density increases have been authorized and which have been, or are to be, secured through Section 36 agreements are for the most part quite straightforward, and include:

- land, cash payments, and funds for construction costs for assisted housing;

- space for non-profit cultural/institutional uses, and workplace daycare, including the provision of funds and/or the acceptance of responsibility for costs associated with the occupancy and use of the space;

- heritage preservation, including restoration costs;

- parkland and parks development costs;

- significant pedestrian connections which realize major public objectives; and

- the provision of public art, including the holding of art competitions.

However, in addition to these kinds of facilities, services and matters, the Massey-Ferguson agreement also deals with a broad range of matters related to the servicing and development of the lands, such as responsibilities for the provision of infrastructure, the sharing of infrastructure costs, conveyances of land for park and streets, and an environmental management and reporting program. (In the case of the Railway Lands these kinds of issues were the subject of agreements authorized by special legislation contained in the City of Toronto Act for the Railway Lands only.)

In addition to the provisions contained in the agreements referred to above, I have also taken into account, in developing the statements included in Appendix 7, the need to establish reasonable and clearly understood boundaries for the use of height and/or density incentives. Consequently, in indicating the facilities, services and matters for which such incentives might be authorized, I have not included in Appendix a simple compilation of all matters secured or to be secured in Section 36 agreements to date. Instead proposed Section 8.12 refers, in general terms, to the kinds of public benefits for which height and/or density incentives might be explicitly established, provided that the planning and development context is appropriate, and specifically identifies assisted housing; non-profit community, cultural and/or institutional facilities; heritage preservation; public open spaces beyond that which might be otherwise required pursuant to the Planning Act, and significant pedestrian connections.

The proposed Section 8.12 links the facilities, services and matters for which incentives may be authorized to Official Plan

objectives. In addition, paragraph vi. of Section 8.12, which provides for the possibility of authorizing incentives in exchange for public benefits which are not specifically identified, clearly indicates that these other benefits should not include any which might otherwise be required pursuant to The Planning Act, without the authorization of increases in height and/or density in exchange.

I would expect that the issue of what facilities, services and matters are appropriately secured through the provision of height and/or density incentives will be the subject of considerable comment and discussion during the review process recommended in this report. Consequently I will be reporting further on this issue following the circulation and review of this and the accompanying summary report.

The general statements in Appendix 7 are proposed in order to provide clear and accessible guidelines as a context for specific incentive provisions and policies which may be added to the Official Plan from time to time through general amendments, Part II Plans, or site-specific amendments.

The framework provided by these statements, in my view, is consistent with the positive aspects of the initiatives discussed in their report and summarized in Tables 3 and 4 of Appendix 1. However, the statements also provide important ground rules in order to ensure that similar initiatives in the future are pursued in a consistent and equitable manner. For example, in view of concerns set out in Section 7.3.3 above, proposed Section 8.15 indicates an intention to generally limit the use of commercial incentives to the Finanical District, unless appropriate area studies have been carried out.

The statements proposed in Appendix 7 are relatively detailed in terms of assisted housing. For example, proposed statements 8.16(a) states that assisted housing contributions should take the form of the accommodation of assisted units in the development site, land for units off-site, or a cash-in-lieu payment, and Section 8.16(b) indicates Council's objective that the cost of making the contribution should general be no less than half of the value of the extra density provided in exchange.

9.2.2 Proposed Assisted Housing Bonus for the Financial District

The disadvantages of including in the Official Plan a comprehensive schedule of bonuses for all public benefits whose provision Council might wish to encourage have been noted. However, the problem of generating more of a particular benefit

than the City wants or needs, and the pitfalls of bonusing for design features and other on-site amenities, as illustrated by the use and abuse of New York city's plaza bonus, would not apply to a bonus for assisted housing, particularly for the provision of land off-site. In addition, the need for increased certainty and consistency in the authorization of extra density and/or height in exchange for assisted housing contributions is obviously required.

These considerations suggest that specific assisted housing incentive policies, tailored to specific land use districts, would be a valuable addition to the Official Plan, provided these were consistent with the Plan's underlying policies and objectives. Such incentives policies could be developed incrementally, in the context of general statements along the lines proposed in Appendix 7.

In reviewing the various incentives options discussed in Section 7 above, the option which at this time seems most likely to be effective without undermining the mixed use and residential land use objectives, is the inclusion in the Part I Plan of an assisted housing bonus for the Financial District. Such a bonus would permit an increase in commercial density on Financial District lots, in exchange for the provision of land for assisted housing within the Central Area but outside the Financial District, with a cash-in-lieu option.

This option is consistent with the designation of the Financial District as the primary location for office space, with its high transit accessibility and with Official Plan policies which identify it as an area where housing is to be encouraged, but not relied upon for the achievement of Council's housing objectives. These factors suggest that commercial densities could be increased and residential potential correspondingly decreased without endangering Council's overall mixed-use and housing objectives, and without exceeding the overall bulk already permitted under the mixing formula applicable to the area. The attractiveness of the Financial District for commercial development and the relationship between new office development and pressures on the City's housing market also support the development of a Financial District assisted housing bonus.

In view of these considerations I am proposing a Financial District bonus policy along the lines set out in Appendix 8 to this report for inclusion in the Official Plan. This proposed policy is consistent with the assisted housing bonus developed in consultation with BCED for the Financial District block bounded by Yonge, Front, Bay and Wellington Streets, and with the general framework provided by the draft statements included in Appendix 7.

Description of Proposed Financial District Bonus Policy

The proposed Financial District bonus would allow Council to pass by-laws to permit a maximum commercial density of 10 times the area of a Financial District lot, rather than the 8 times maximum now allowed by the Official Plan, in exchange for the provision of land located in the Central Area and acceptable to Council for assisted housing, with a cash-in-lieu option. The extra commercial density would be gained at the rate of 56 square metres for every assisted housing unit for which land or a cash-in-lieu payment is provided to the City.

The specific relationship proposed - 56 square metres for each assisted unit - was developed for the Part II Plan for the BCED Block, and is based on the objective of providing an incentive (commercial floor space) with an aggregate value of about twice the cost of acquiring land for assisted housing.

In my view, the 56 square metres per unit relationship provides an incentive sufficiently generous to ensure that the bonus will be effective and to allow for some shifts in the value of commercial office space in the Financial District relative to the per unit cost of acquiring sites for assisted housing in the Central Area. On the other hand, the incentive is not so generous that it will create an inequitable imbalance between the value of the private benefit and the cost of providing the assisted housing site.

I have not included in the policy any cash-in-lieu figure, but rather have stated that it be the market value of land for one assisted housing. (Given the existing 25% bonus, the per unit land costs for assisted housing should be somewhat less than the per unit costs for market housing.)

Although the proposed policy will be the subject of public discussion and debate, I would like to emphasize at the outset the value of establishing a clear, unambiguous relationship between the amount of extra commercial density to be provided and the size of the assisted housing contribution required in return.

First, the unambiguous statement of this relationship will help to ensure that the use of the bonus policy is controlled, and that its value to the City as well as to the developer will be maintained.

Second, the establishment of this relationship in the Official Plan will help to minimize the potential impact of the proposed policy on the price of Central Area housing sites. Without the control resulting from the inclusion of a specific relationship in the Official Plan, Financial District property owners could

possibly bid up the price of larger housing sites because of the value of the Financial District density such sites could earn them. Any such inflationary impact would, of course, increase with continued use of the bonus policy. The possibility that the particular relationship proposed may become inappropriate as the result of changes in the commercial and/or residential markets can be appropriately dealt with through the monitoring required in the third draft statement.

The establishment of a clear relationship will also make the policy much simpler to implement and administer, and thus decrease time spent in negotiation. Such time is both expensive both for the developer and, since it is demanding of the City's staff resources, for the City.

In terms of the assisted housing site(s) to be conveyed in exchange for the bonus density, the proposed policy states that the site must be acceptable to Council, and that its housing potential should be determined by the Official Plan designation given to the site, rather than its designation under the Zoning By-law. However, in the case of a site in a Mixed Commercial-Residential Area, this capacity is proposed to be measured in units per hectare, since the increased number of smaller units permitted by the FSI option would not be appropriate in terms of the objectives of most assisted housing producers, including Cityhome. Proposed Section 3A(g) allows for some recognition of the value of any residual commercial potential conveyed to the City with the site.

Section 3A.4 (f)(v), which requires a reduction in the residential potential of the Financial District lot commensurate with the increase in commercial potential, is intended to ensure that the overall bulk of development on the Financial District lot does not exceed that permitted before the authorization of the bonus. Finally, Section 3A.4(f)(vi) establishes an overall limit of 12x non-residential gross floor area, including any other density bonuses or exemptions permitted by the Plan. (One reason for limiting the proposed assisted housing bonus to an extra 2x is to allow for the possibility of the existing 2x maximum heritage bonus without exceeding the overall limit of 12x. The maximum size of any assisted housing bonus is, again, a matter which will undoubtedly receive considerable attention during the review of the proposal.

Although the policy included in Appendix 8 requires that the assisted housing site be located in the Central Area, I am not opposed in principle to the provision of satisfactory housing sites outside the Central Area, provided any differential in the value of Central Area and non-Central Area sites is recognized in

the policy and in the determination of a cash-in-lieu payment. I will address this issue, as well as others, when reporting further on this issue.

I would note, however, that it is important for the cash-in-lieu amount to accurately reflect the price of residential land in order to avoid the creation of an incentive for the provision of cash-in-lieu payments instead of actual sites, since the City's preference, as reflected in the policy context set out in Appendix 7, would be for land conveyances rather than cash payments-in-lieu.

Impact of Proposed Financial District Bonus on the Transportation System

Currently, the entire Central Area is estimated to have a realistic development capacity of 9.75 million square metres of office space, with approximately 5.75 million square metres already in existence. To the extent it is taken up by developers, the introduction of the proposed assisted housing density bonus will further increase the office development capacity, and thus, all other things being equal, could have the effect of marginally increasing the rate of office development. (This supply-side effect of increasing development rights is discussed in the 1986 OOR "Background Paper No. 8", pages 34-6.)

Over the 1975-85 period, the average amount of office floor space built and occupied ("absorbed") each year in the Central Area was approximately 150,000 square metres. Evidence presented at the 1986 Ontario Municipal Board hearings on the Railway Lands Plan suggested that the approval of the maximum 1.1 million square metres of office development allowed by the Railway Lands Part II Plan might increase the average annual absorption rate of office space by 10%, from 150,000 to 165,000 square metres a year. Based on this estimate, the effects of the proposed Financial District housing bonus on the overall rate of Central Area office development would be expected to be quite small.

It should also be noted that whatever amount of additional office development is encouraged by the bonus, it would be located in that part of the Central Area best served by transit. Furthermore, this additional office development would be accompanied by the provision of more housing in the Central Area which would help offset any adverse transportation consequences.

To the extent that it increases the 9.75 square metre development limit, the proposed assisted housing bonus will add to the emerging long-term inbalance between development potential and transportation capacity in the Central Area. Such an inbalance

has resulted in the need to recommend and study a number of Central Area road and transit improvements and to undertake a review of the City's transportation policies. The recently published joint Metro/City Central Area Monitoring Program (CAMP) report describes the Central Area transportation improvements that are currently under study.

It was the general conclusion of the 1986 OOR report that the City's transportation policies should generally reflect an incremental approach to transportation planning which allows improvements to be made in stages, as required, while establishing a monitoring and review process to ensure that needed services can be provided at the appropriate time. At the regional scale, the future challenge is to achieve a balance in the pattern of Metro infrastructure improvements to enable continued support to be given to the growth of the suburban centres, while not ignoring the long term transportation needs of the Central Area.

A decision to approve an assisted housing density bonus along the lines set out in Appendix 8 should thus reinforce the City's commitment to the needed regional transportation improvements for the Central Area and the associated policy position of pursuing the futher incremental expansion of transportation services based upon the results of an on-going monitoring and review process.

9.2.3 Possibility of Other Assisted Housing Bonus Policies, Particularly for Residential Development

I am not recommending at this time the introduction of any general or area-wide incentives policy other than that proposed for the Financial District because of the following considerations.

i) I do not think it would be wise to recommend a commercial assisted housing bonus policy which is generally available outside the Financial District because of the possible negative impact on fundamental Official Plan principles respecting mixed use, housing and the control of office development. Site- or area-specific considerations may from time to time make the use of commercial incentives outside the Financial District an appropriate planning tool for achieving results which are consistent with these underlying principles. In addition, further study may lead to specific policies, appropriate for use in particular Mixed Commercial-Residential districts outside the Financial District. Such policies could then be added to the Plan by way of a general amendment to the Part I, such as that recommended for the Financial District in this report, or through a Part II Plan.

In view of these considerations, I have included in Appendix 7 a statement indicating that commercial density incentives should generally be limited to the Financial District, except where appropriate area study suggests that such incentives will not compromise Official Plan objectives respecting mixed use, housing and office space.

ii. I have not recommended any new general residential density incentives policies at this time, primarily because of the need to deal with problems resulting from the introduction of the FSI residential density option, and because of the limited opportunities available to pursue the kinds of on-site residential bonuses discussed in Section 7.3.2 above. However, I am recommending that the "FSI/UPH Review" called for in the 1986 OOR include the consideration of the possibility of a new residential density bonus to supplement the existing 25% bonus by providing for increased market residential density in exchange for the provision of land for assisted housing purposes, with a cash-in-lieu option.

I am also recommending that area-specific studies involving the determination of appropriate residential densities include consideration of the use of market residential density incentives to secure the inclusion of an assisted housing in market residential developments, using the context provided by the general guideline statements proposed in Appendix 7 as a framework.

9.2.4 Possible Further Study of Compulsory Assisted Housing Requirement or Levy

Having assessed the options set out in Sections 7 and 8, I consider the use of an incentives as opposed to an exactions approach to be the appropriate course of action at this time. However, as indicated by the identification of the possible disadvantags of this approach in Section 7, I am aware that density incentives must be used prudently and with restraint if underlying built form and land use planning principles are to be maintained.

Consequently, I have included a recommendation that should Council wish to pursue the use of compulsory assisted housing requirements or levies, either instead of or in addition to an incentives approach it request a further report on this matter, including the rationale for such a strategy, procedures for implementing it, and the appropriate enabling legislation.

9.2.5 Establishment of Assisted Housing Reserve Fund

At present, the greatest constraint on the provision of assisted housing by public and non-profit housing producers is the shortage of affordable development sites. In view of this pressing need, it is preferable for the City to secure actual sites, rather than cash-in-lieu payments. However, as discussed in Section 4.2 above, a cash-in-lieu option is an essential component of a policy based on the conveyance of land, and it is highly probable that such payments will be received. Consequently, having consulted with the Commissioners of Finance and Housing on this matter, I am recommending that an Assisted Housing Reserve Fund be established.

Although consideration was given to the possibility of putting funds achieved through Section 36 assisted housing policy in the existing Revolving Fund for Landbanking, the Commissioner of Finance has advised that any funds achieved from the private sector in accordance with the new policies recommended in this report should be accounted for "separate and apart from the City's Landbanking Program". As stated in his letter of October 29, 1987, "this could be accomplished by establishing a Reserve Fund to contain, control, and invest funds received, and would permit an evaluation of the proposed program on its own merit, through time, should it be implemented".

In this regard, the City Solicitor has suggested that, with the consent of all parties involved, the account established for the $2,000,000 cash payment for the World Trade Centre could be considered the start of such a Reserve Fund.

Funds from such a Reserve Fund should be used only for capital expenditures to expand the stock of assisted housing within the City, and not for the operation of existing assisted housing. However, such expenditures could involve the acquisition and renovation of existing residential buildings for assisted housing purposes, and possibly other activities which are not now funded by other levels of government. I am recommending that the Commissioner of Housing, in consultation with myself and the Liaison Committee established at the recommendation of Living Room II, report on the appropriate use of these funds for other assisted housing capital programs.

In conjunction with discussion of the need for additional assisted housing sites, the Living Room II report noted the potential for detrimental competitive situations resulting from the fact that every producer of assisted housing, both public and private, operates independently in terms of site acquisiton and development. The report futher suggested that there is a clear need for mechanisms to ensure liaison and co-ordination between such producers, including Cityhome, co-operatives and church and other non-profit housing agencies, and recommended that a Liaison

Committee be established for this purpose. Such a Committee, jointly chaired by the Commissioner of Housing and Alderman Hall, now exists, and includes representatives from the Co-operative Housing Federation, the Housing Department, Cityhome, the Supportive Housing Coalition, and the Metropolitan Toronto Housing Company Ltd. The process developed by the Liaison Committee for allocating service resources would apply to land and cash received for assisted housing pursuant to Section 36.

10. Conclusion

This report is made up of two components. The first, consisting of Sections 1-5 and Appendices 1-6, reviews existing policies and initiatives for promoting private sector involvement in the provision of assisted housing.

The second half of the report, consisting of Sections 6-9, and Appendices 7 and 8 describes and evaluates a series of options for more effectively promoting increased private sector involvement in the provision of assisted housing and recommends that certain of these be pursued. These options are categorized as either incentives options, which rely on voluntary participation by the private sector, or exactions options, which involve the imposition of compulsory requirements.

Based on consideration of the advantages and disadvantages associated with the two approaches generally, and with each of the specific options discussed, the report recommends an approach involving the more effective and consistent use of density incentives. However, a recommendation for further study of an exactions approach is also included, should Council wish to pursue the use of compulsory assisted housing requirements or levies, either instead of or in addition to the recommended incentives options.

Two Official Plan amendments are proposed in order to more consistently and equitably pursue the use of height and/or density incentives. The first, included in Appendix 7, consists of general statements to be added to Section 8 ("Implementation") of the Official Plan in order to indicate for what purpose and under what general conditions Council will amend the Official Plan or enact Zoning By-Laws in order to authorize the use of incentives persuant to Section 36 of the Planning Act. These statements are essentially guidelines for dealing with site-specific applications for Official Plan amendments and rezonings and for developing more general incentive policies for inclusion in either the Part I or Part II Official Plans.

The second set of Official Plan amendments is included in Appendix 8, and, if enacted, would establish an assisted housing density bonus for the Financial District. This policy is similar to that included in the recommended Part II Plan for the development of the BCED Block in the Financial District. It is also consistent with the context provided by the first set of proposed amendments included in Appendix 7.

In my view, these recommended policies are consistent with the overall objective leading to the production of this report, that is, the identification of policies to more effectively promote private sector involvement in the provision of assisted housing. They are also consistent with the more specific objectives summarized in Section 9.1. That is:

- They are clearly authorized by Section 36 of The Planning Act.

- By promoting the provision of land and/or cash funds they will help to make provincial MUPs (Maximum Unit Prices) useful in the Toronto land market, and they will complement but not replace existing programes funded by other levels of government.

- By setting general limits for the use of incentives which are consistent with the underlying principles of the City's Official Plan, they will help to ensure that these principles are respected.

- The guidelines set out in the proposed statements included in Appendix 7, and the specific Financial District assisted housing bonus policy proposed in Appendix 8, should introduce greater certainty and consistency into the process for achieving public benefits, including assisted housing, through the use of height and/or density incentives.

Other recommendations, summarized in Section 1.2, are also included in order to extend the existing 25% assisted housing density bonus to developments proceeding under the "FSI option" in Mixed Commercial-Residential Areas, and in order to ensure that the resources generated by the proposed incentives policies are equitably and effectively used by both public and private non-profit housing producers. A covering summary report recommends a process for the circulation and review of this report, including a public meeting.

11. Recommendations:

1. That the City Solicitor, in consultation with the Commissioner of Planning and Development, submit the

necessary draft by-laws to amend the Official Plan and Zoning By-law in order to extend the existing 25% assisted housing density bonus to developments proceeding under the FSI alternative for calculating residential density in Medium and High Density Mixed Commercial-Residential Areas.

2. That the "FSI/UPH Review" called for in the 1986 Quinquennial Review and area-specific or Part II studies dealing with residential densities consider the inclusion of new assisted housing provisions permitting specified increases in market residential density on a lot in exchange for the provision of a portion of the lot or land at another location to accommodate a specified amount of assisted housing, with a cash-in-lieu option, taking into account the considerations set out in Sections 7.3.2 and 7.3.3 of this report and the context provided by the statements included in Appendix 7.

3. That the Commissioner of Planning and Development, in consultation with the City Solicitor, report further on the proposed Official Plan amendments set out in Appendices 7 and 8 of this report, taking into account comments received in response to the circulation of this report and at any public meeting held to discuss it, and including, if appropriate, draft by-laws to give effect to such amendments.

4. That, if Council wishes to pursue the longer term option of a compulsory assisted housing requirement or levy, it request the Commissioner of Planning and Development, in consultation with the City Solicitor and the Commissioner of Housing, to submit a further report on this matter, including the rationale for such a requirement or levy and the methods for implementing it, including any new legislation considered appropriate.

5. That Council instruct the Commissioner of Planning and Development to give a high priority to securing the provision of assisted housing in negotiations with private developers regarding the authorization of increases in height and/or density in exchange for the provision of public benefits.

6. That the Commissioner of Finance be requested to establish an Assisted Housing Reserve Fund to accommodate any cash payments received by the City for assisted housing pursuant to Section 36 of The Plannng Act, including those provided for the World Trade Centre

development, and that the City Solicitor be requested to consult with the parties to the World Trade Centre Section 36 Agreement to permit such amendments to the World Trade Centre Zoning By-law required to place the World Trade Centre assisted housing funds into this Assisted Housing Reserve Fund.

7. That the Commissioner of Housing, in consultation with the Commissioner of Planning and Development and the City Solicitor report on new capital programs for expanding the stock of assisted housing in the City which might be funded by the Assisted Housing Reserve Fund recommended above.

R. Millward

Robert E. Millward
Commissioner

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APPENDIX 1

Assisted Housing Achieved Through Existing Density Bonus Provisions and Other City Initiatives.

TABLE 1

Private Sector Developments Utilizing Existing Assisted Housing Bonus

The following projects involved the use as-of-right assisted housing density bonus provisions by private developers. With the exception of 17-23 Pembroke Street, which was subject to a rezoning under the South of Carlton Part II Plan, all of the bonuses utilized included the 25% density increase permitted under the Part I Plan and Zoning By-law.

One of these projects proceeded under a modificaton to the Central Area Plan (55 Charles Street West) and three under site-specific amendments to the Central Area Plan (20 Carlton Street, 74-86 Gerrard Street East and 27 Wellesley Street East). The modification for 55 Charles Street West, which was added to the Plan during the Central Area Hearing, was intended to ensure that the 12 times office development previously permitted on the site was replaced with a development more consistent with the Central Area Plan, and the three amendments were essentially technical in nature. The assisted housing provisions for all four of these developments were the same as those introduced by the Central Area Plan and generally available at present.

	Development, Section 11 No. and O.P. amendment If Applicable	No. of Bonus Units	Comments	Project Status
1.	*20 Carlton 11.20 OPA No. 95	125	OPA increased residential density in order to achieve permitted on the site development more consistent with Central Area Plan. than the previously permitted apartment-	Project complete; "assisted" units leased at market rents.

			hotel. Offical Plan amendments allowed for a total number of units, and the assisted housing provision was included in Zoning By-law only. When the bonus units were not funded through the Rent Supplement Program, the by-law was amended to delete the assisted housing requirement.	
2.	55 Charles St. W. 11.28	79, scattered throughout one tower of two-tower residential development.	This project was developed in accordance with modification to Central Area Plan to achieve residential instead of 12x office previously permitted on the site. Modification allowed for 25% density bonus, and bonus units are subject to an agreement between owner and province that they will be filled by tenants from waiting list for Metro Toronto Housing Corporation. City Council has passed resolution stating that this arrangement is a satisfactory fulfillment of assisted housing requirement. Difficulties which were encountered in securing fulfillment of assisted housing requirement for this	Project complete.

			project were a catalyst for seeking changes in assisted housing provisions of City of Toronto Act, Official Plan and Zoning By-law. (Appendix 4.)	
3.	175 Elm St. (One Park Lane)	91	Portion of the site leased by developer to Charles Hastings Housing Co-operative.	Entire development complete.
4.	*74-76 Gerrard St. E 11.72 OPA No. 99	20	Project conformed to Central Area Plan, but was "separated off" so it could proceed before Central Area Hearing concluded. When units were not taken up for Rent Supplement Program, City Council passed a by-law to delete the requirement for assisted housing.	Development complete; floor area of market units increased to include floor area of "assisted" units.
5.	25 Mutual St.	97	Maximum units permitted by O.P., including 25% density bonus, were built by private developer and developed site was sold to Cityhome on a turnkey basis at MUP rates.	Development complete.
6.	145 Mutual St.	145	Same arrangement as 25 Mutual St.	Development complete.
7.	17-23 Pembroke St.	8	Assisted units sold on turnkey basis to Cityhome. Development involved an up-zoning to	Development complete.

			Official Plan maximum which was conditional on inclusion of assisted units.	
8.	*27 Wellesley St. E. 11.74 OPA No. 102	11	Project conformed to Central Area Plan, but was "separated off" so it could proceed before Central Area Plan Hearing concluded. Assisted units were not taken up for Rent Supplement Program, and were rented at market level.	Development complete; "assisted" units leased at market rents.
Total Assisted Limits Achieved				420

TABLE 2

Other Projects Subject to Assisted Housing Agreements With The City Pursuant to Section 5 of the City of Toronto Act

The following projects are subject to the same kind of assisted housing agreements as are required of projects utilizing the existing 25% bonus. They are not included in Table 1 because they are not private sector developments and, in the case of Nos. 2 and 3, because they did not rely on an existing 25% bonus. Cityhome projects which proceeded under either an existing 25% bonus policy or through amendments to the Official Plan or Zoning by-law are not included here since they are not required to enter into assisted housing agreements with the City. The fact that Cityhome does not enter into assisted housing agreements makes it difficult to identify the specific projects where the 25% bonus has been utilized. In general, however, Cityhome routinely uses the 25% bonus when it is available.

	Development, Section 11 No. and O.P. amendment If Applicable	No. of Assisted Units	Comments	Project Status
1.	153 Borden St.	10, developed by House-link, a private non-profit organization.	Development took advantage of 25% density bonus in Official Plan, but site was zoned below maximum density permitted by the Plan. Committee of Adjustment granted necessary zoning variances to permit project, i.e., density increase to Plan maximum; height increase; and reduced recreation space.	Project complete.
2.	708 St. Clair Avenue West 11.90 O.P.A. No. 131	131 seniors and 18 family units, developed by St. Matthew's Bracondale House, a non-profit organization.	Density and height increases achieved through Official Plan and Zoning By-law amendments. No 25% bonus available.	Project complete.
3.	1353-69 Queen Street East and Zoning By-law No. 721-81	36, developed by River-dale Housing Co-operative.	Rezoning from C2 V2 to R423. No Official Plan amendment required since site located in South-east Riverdale Redevelopment Area.	Project complete.

No 25% bonus available.

Total - 177 units.

TABLE 3

Central Area Private Sector Developments Proceeding Under Official Plan Modifications or Amendments Which Were Conditional on Assisted Housing Contributions as a Public Benefit

The following Central Area developments were permitted as the result of modifications or amendments to the Official Plan which were conditional on contributions to the development of assisted housing, i.e., land on- or off-site or a cash-in-lieu payment. These developments do not include projects which took advantage of an as-of-right 25% density bonus or completely non-market assisted housing projects which achieved extra density through an Official Plan or Zoning By-law amendment (Tables 1 and 2 respectively); or developments subject to planning controls involving special assisted housing requirements or objectives (Table 4).

	Project, Section 11* and OPA**No.	Assisted Housing Involved	Comments	Project Status.
1.	Atrium-on-Bay (595, 633 Bay St. 25 Elm St.) 11.31 OPA No. 223, as Amended by No. 237	Land for 100 units at 25 Elm St. conveyed to City.	25 Elm St. was conveyed to the City and developed by Cityhome as part of the settlement (as amended in 1981) of an objection to the Central Area Plan by Trizec, Twigg and City Parking Holdings Limited.	Entire project complete.
2.	1001 Bay St. (Strasscorp Holdings) 11.181 OPA No. 354	Land on-site for 35 units (portion of the site fronting on St. Joseph Street) conveyed to City.	St. Joseph St. parcel was conveyed to the City in the context of OP and Zoning By-law Amendments which incresed the residential density and height permitted on the site. The question of which non-	Bay St. market residential under construction. Development of assisted housing site not yet commenced.

			profit housing developer will develop the St. Joseph St. parcel has not yet been finally resolved.	
3.	31 Bloor St. E., 2 Sultan St., 20 Charles St. E., 20-30 Asquith Ave., 830 Clark St. 11.182 OPA No. 356	Acquisition of 49 existing units at 2 Sultan St. achieved by Sultan Street Housing Corporative as the result of sale of increased commercial density. 22 additional dwelling units transferred to TPA Parking Lot No. 1 (20 Charles St.) and 25% bonus applied to resulting total, allowing for increase in residential component of potential joint TPA/Cityhome development on the site. Funds from sale of commercial rights on TPA Lot No. 1 put into TPA account to	Complex set of density transfers permitted by this amendment. Only <u>required</u> assisted units are 49 co-op apartments at 2 Sultan St., although potential for TPA/Cityhome joint venture has been created at 20 Charles St. E. If that project proceeds, TPA Lots Nos. 2 & 3 could also be developed for housing once new garage is in place.	Amendments approved; Development Review underway for 31 Bloor Street E. approval allows for final sale of commercial potential of their site.

		contribute to cost of garage on the site.		
4.	CBC (Simcoe/Front/ John/Wellington block) 11.177 OPA No. 344	Appropriate amount of assisted housing to be included in residential development on existing CBC site at 354 Jarvis Street.	Official Plan Amendment provides that prior to passing zoning by-law to implement OPA, Council will be satisfied that housing will be developed at existing CBC sites at 354 Jarvis and 1140 Yonge/11 Marlborough, including appropriate amount of assisted housing at 354 Jarvis.	OPA approved; zoning amendment outstanding. Discussions underway respecting appropriate amount of assisted housing.
5.	College Park (Bay/College/ Gerrard/Yonge) 11.43	Up to 225 units on the site to be assisted, provided appropriate housing program is available	Assisted housing requirement included in modification resulting from settlement of objections to Central Area Plan. However, Section 11.43 provides for waiver of requirement that assisted units be erected if no appropriate housing program is available at time assisted housing is to be built.	Development approximately 50% complete. No assisted housing constructed.
6.	Crown Life (40 Asquith Ave.; 20, 21 Park Rd.; 120, 160 Bloor St. E.	Land for 192 units at 40 Asquith conveyed to City	40 Asquith was conveyed to the City by Crown Life as part of the settlement of	Entire development complete.

	11.30		Crown's objection to the Central Area Plan.	
7.	Eaton Centre Phase II 11.31 as amended by OPA No. 237	Land for up to 150 units (Elizabeth/ Chestnut) and up to 206 units (Victoria/ Shuter) conveyed to City	Housing sites were conveyed to the City by Cadillac-Fairview in context of amendments to Official Plan, Zoning By-law and implementing agreements respecting Phase II of the Eaton Centre. Official Plan provisions were originally established as a settlement of Cadillac-Fairview's objection to the Central Area Plan.	Elizabeth/ Chestnut site developed for 144 units by Cityhome.
8.	Massey-Ferguson OPA No. 382 (Amends Part I & Niagara Part II	Approximately 100-200 assisted units required on a portion of the site, depending on total amount of residential gross floor area developed	Official Plan amendment provides for zoning requirement that 25% of residential gross floor area be used for assisted housing. Zoning By-law, pursuant to Section 36 of the Planning Act, makes achievement of residential gross floor area conditional on 25% assisted requirements.	Amendments to Official Plan and Zoning By-law approved.
9.	Polo 1 (1055 Bay St.) 11.126 OPA No. 226, as	18 units on-site (portion of the site fronting on	Surface rights to Nicholas St. portion of the site conveyed to	Entire development complete.

	amended by OPA No. 323	St. Nicholas St.) sold to non-profit coop for MUP rates.	St. Nicholas Housing Cooperative and 18 units sold to coop on turnkey basis at MUP rates.	
10.	30 St. Patrick, 29 McCaul OPA No. 376 (Amended South East Spadina Part II)	Land for 20 units at 29 McCaul conveyed to non-profit coop	Portion of site at 29 McCaul conveyed to artists' housing cooperative for development of 20 units in context of Official Plan amendment to increase commercial and residential densities.	Project approved.
11.	Scotia Plaza/ Waterpark Place 11.153 OPA No. 277	Land for 163 units at 21 Princess St. (Biltrite site) sold to City for $2.5 million instead of market value of $4.5 million. (Paid for by the City out of proceeds from sale of public lane to developer.)	In context of density transfer involving Scotia Plaza and Waterpark Place redevelopment sites, Biltrite site sold to City at $2 million less than market value Biltrite site subsequently exchanged for $1 million and land at 246 The Esplanade and 26 Berkeley Street, (the Greenspan lands) for use as part of "Arts Block" (OPA No. 400). $4 million to be used in development of 1 Berkeley St. (St. Lawrence Phase B school site) for 100 units. Phase B school site to be available for	Scotia Plaza and Waterpark Place under construction.

			development as result of relocation to school of Arts Block.	
12.	248 Simcoe St. and 434, 444, 454 University Avenue	Land for 109 units at 248 Simcoe St. to be conveyed to City, along with $200,000 cash contribution to development costs.	Site at 248 Simcoe St. plus $200,000 for development costs provided to City in exchange for increase in commercial density on University Ave. site.	Final report approved.
13.	22, 24, 26 Wellesley St. W., 3, 15, 19 Phipps St. 11.196 OPA No. 393	Land for 15 units at John and Stephanie Streets conveyed to City.	Stephanie/John site conveyed to City for development by Cityhome in context of Official Plan and Zoning By-law amendments to increase residential density and height at Wellesley/Phipps site.	Official Plan and Zoning By-law amendments approved. Cityhome considering application for increase in number of units permitted at Stephanie/ John.

Summary of Assisted Housing Achievements Through Site-Specific Official Plan Modifications and Amendments Involving the Private Sector

1. Land for 718 assisted units has been conveyed to the City or private non-profit housing groups.
2. 67 assisted units have been acquired by the City or private non-profit housing groups at MUP rates.
3. $2,200,000 has been provided to the City for land acquisition (World Trade Centre) and development costs (248 Simcoe Street).
4. Up to 225 assisted units are targeted for the College Park development, and an appropriate amount of assisted housing is

to be achieved at 354 Jarvis Street in conjunction with the CBC development.

5. Approximately 100-200 assisted units are to be included in the Massey-Ferguson redevelopment project.
6. The Biltrite site was acquired at $2,000,000 less than market value.

* Section 11 is the section of the Part I Official Plan which contains site-specific Official Plan amendments.

** OPA - Official Plan Amendments.

TABLE 4

Major Private Developments Subject to Part II Plans Which Include Specific Assisted Housing Objectives or Requirements*

	Development	Requirements	Project Status	
1.	Harbourfront	Overall objective that 30% of all units be assisted. Part II Plan also includes Quay by Quay objectives for assisted housing.	Development approximately 50% complete; 529 assisted units on Bathurst Quay complete or under construction.	
2.	Railway Lands	Approximately 13.5 acres of land to be provided to the City for low-to-moderate income housing, sufficient to accommodate approximately 2,150 units	Part II Plan approved; Precinct "A" (Stadium Precinct) approved for development and required agreements executed; stadium under construction.	
3.	World Trade Centre OPA Nos. 391, 392 (Part II Plan)	$2 million provided to the City to help meet requirement for provision of land off-site for approximately 200 units (30% of market units on-site).	Part II Plan drafted pursuant to Section 36 of the Planning Act.	Official Plan and Zoning By-law amendments approved by OMB.

APPENDIX 2

Legislative Authority for Existing Assisted Housing Density Bonus Policy Section 5 of the City of Toronto Act (1975), No. 2

5.1 In this section, "assisted housing program" means a program designed to provide housing accommodation, by sale or lease, at a price or rental below the current market price or rental in the area in which the accommodation is located.

2 In any by-law passed under Section 35 of The Planning Act, the Council of the Corporation may prescribe one or more residential densities of development applicable to any land in respect of which the owner agrees with the Corporation, as set out in subsection 3, to provide for the purpose of any assisted housing program, such proportion as the by-law may specify of the units to be built on such land and another residential density of development applicable to land in respect of which the owner does not so agree.

3 The Corporation may require an owner to enter into one or more agreements rspecting the provision of units referred to in subsection 2.

4 Any agreements entered into under subsection 3 may be registered against the land to which it applies and the Corporation is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.

APPENDIX 3

Letter dated August 8, 1986 from Mr. D.J. Beesley, P. Eng., General Manager, Ontario Housing Corporation, to Ms. Barbara Caplan.

Your letter to the Honourable Alvin Curling, Minister of Housing, dated July 21, 1986, regarding Ontario Housing Corporation's Rent Supplement Program, has been passed to me for reply.

You indicate that City Council requests that OHC change its policy on the take up of rent supplement units in private sector developments to take advantage of the City's bonus density provisions. Council suggests that OHC provide these developers with commitments to lease units for the Rent Supplement Program prior to building permits being issued for such developments. Council also suggests that OHC require these developers to enter into 35-year rent supplement agreements for the bonus density units and to renew such agreements on expiry.

Generally, OHC does not give definite commitments to private sector landlords to take up rent supplement units until the project is substantially completed. This is done to ensure that the units offered by the landlords are suitable and are still needed by the local housing authority applicants; that the current rental rates are acceptable under the Rent Supplement program, and that there are sufficient unit allocations to enable OHC to enter into rent supplement agreements with the landlords. For these reasons, OHC is generally not in a position to commit itself too far in advance for take up of rent supplement units in private sector developments.

Regarding the terms of rent supplement agreements, OHC prefers to enter into agreements with one to three-year terms, subject to renewal, so that if the circumstances change, as noted above, the agreements can be cancelled without further commitment to the landlords.

In order for OHC to take advantage of the City's bonus density provisions, perhaps City Council could consider requiring those private sector developers to offer a certain percentage of the project's units to OHC for rent supplement purposes prior to rent-up. If OHC is unable to take up the units initially, the developer could be obliged to offer the units on future unit turnovers.

I hope that the foregoing comments will be helpful to you and that we will be hearing from you furthr regarding this matter.

APPENDIX 4

Draft Legislation and Proposed Amendments to Official Plan and Zoning By-law Respecting Social (Assisted) Housing.

Draft Legislation

00. Subsections 5(1), (2) and (3) of The City of Toronto Act, 1975 (No. 2), being chapter 117, as amended by Section 3 of The City of Toronto Act, 1981, being chapter 103, are repealed and the following substituted therefor:

(1) In this section, "social housing program" means

(a) a program which, in the opinion of the council of the Corporation, is designed to provide housing accommodation primarily for persons with low to moderate incomes, at a charge not exceeding the greater of

(i) the amount required to finance, operate and maintain such accommodation without profit; or

(ii) the amount required to be charged for such accommodation under the terms of an agreement respecting the financing of the accommodation where one party is the Provincial or Federal Government or an agency thereof;

and such accommodation is entirely owned by or leased to, and operated by one or more of

(i) a "non-profit co-operative housing corporation" as defined in the Residential Tenancies Act, R.S.O. 1980, c.452, as amended from time to time; or

(ii) a bon a fide "non-profit corporation" as defined in the National Housing Act, R.S.C. 1970, c.N-10, as amended from time to time; or

(b) a program which provides housing accommodation which is owned and operated by or on behalf of the City of Toronto Non-Profit Housing Corporation.

(2) In any by-law passed under Section 34 of the Planning Act, the Council of the Corporation may, in addition to prescribing residential densities under the authority of Section 34, prescribe one or more residential densities of development applicable to any land in respect of which the owner of the land and the operator of the housing accommodation, if different from the owner, agrees with the Corporation to provide all or such proportion as specified in the by-law, of the housing accommodation located or to be located on such land, for the purpose of a social housing program.

(3) The Corporation may require an owner, and operator if different from the owner, to enter into one or more agreements respecting the provision of social housing accommodation referred to in subsection (2).

00. Subsections 5(5), (6) and (10) of the said Act, as amended, are amended by striking out the words "assisted housing program" and inserting in lieu thereof "social housing program".

00. Section 5 of the said Act, as amended, is amended by adding thereto the following subsections:

(13) Any by-law passed by the council which implements subsection (2) may give exemptions or reductions, or both, from the zoning standards and provisions otherwise applicable to similar forms of housing accommodation which are not part of a social housing program;

(14) The council of the Corporation shall not be required to pass any by-law pursuant to subsection (2), notwithstanding subsection 34(11) of the Planning Act, and notwithstanding that any proposed development complies with the definition of social housing program in subsection (1);

(15) The Corporation may enter into an agreement with the owner of land proposing a development on the land which is to contain housing accommodation which complies with the definition of social housing program in subsection (1), but for which no by-law pursuant to subsection (2) is required to permit the development, and such agreement may contain provisions respecting the maintenance of such accommodation and such other terms as are agreed between the owner and the Corporation, and the provisions of subsections (4), (5), (6), (7), (8) and (12) shall apply to any such agreement.

00. A reference in any by-law passed by the council of the Corporation before this Act comes into force to "assisted housing", "assisted housing program" or an "owner" of land agreeing with the Corporation pursuant to Section 5 of the said Act, shall be deemed for the purposes of any actions taken after this Act comes into force, to be references to "social housing", "social housing program", and an "owner of land and operator of the housing accommodation if different from the owner", respectively.

00. Any by-law passed under subsection 5(2) and any agreement required and entered into under subsection 5(3) of the said Act before this Act comes into force, shall continue in full force and effect until amended, repealed or revoked as if the provisions of the Act under which the by-law was passed or the agreement entered into had not been repealed.

Appendix 3

Schedule "A"

1. Section 10.2 of the Official Plan is amended by

   (1) deleting Section 10.2, respecting the definition of "assisted housing";

   (2) adding thereto Section 10.___, as follows:

   "10.___ The term "social housing" means housing accommodation which is or is part of a social housing program as defined in the City of Toronto Act, 1975 (No. 2) as amended from time to time."

2. The Official Plan is amended by deleting the term "assisted housing" where it appears and substituting therefor the term "social housing".

Appendix 4

Draft By-law No. 1

No. A By-law

To adopt an amendment to the Official Plan for the City of Toronto respecting the replacement of the definition of "assisted housing", by a definition of "social housing".

(Passed , 198 .)

The Council of The Corporation of the City of Toronto enacts as follows:

1. The text annexed hereto as Schedule "A" is hereby adopted as an amendment to the Official Plan for the City of Toronto.

Appendix 5

Draft By-law No. 2

No. A By-law

To amend By-law No. 20623, respecting references to "assisted housing".

(Passed , 198 .)

The Council of The Corporation of the City of Toronto enacts as follows:

1. Section 2 of By-law No. 20623, being "A By-law To regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", is amended by deleting subsection (4C) and by inserting the following subsection ( ) immediately after subsection ( ):

"( ) "social housing" as used in subsection (13a) of Section 4 means dwelling units with respect to which the owner of the lot, and the operator of the dwelling units if different from the owner, agrees with the Corporation, pursuant to Section 5 of The City of Toronto Act, 1975 (No. 2), as amended from time to time, to provide such units for the purpose of a social housing program;".

APPENDIX 5

Section 36 of The Planning Act, 1983.

36.1 The council of a local municipality may, in a by-law passed under Section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.

2 A by-law may not be passed containing the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development.

3 Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

4 Any agremeent entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.

APPENDIX 6

Excerpt from October 1983 Provincial "Guideline 8: Zoning and Other Land Use Controls" Regarding Section 36

4. Increased height and density (bonus) provisions - Section 36.

Purpose - The increased density or bonus provisions in the leigslation enable a municpality to award increases in density and height of development in return for meeting specific municipal planning objectives. The provisions are intended to provide incentives to encourage private sector involvment in the achievement of stated public objectives, such as the provision of special or assisted housing, the preservation of buildings with historical or architectural value or the provision of additional open space or other service.

The bonus provisions provide a legislative framework for negotiating site specific development arrangements with a developer by giving him the option of either developing to the standard zoning provisions or receiving the height or density bonus in return for providing identified facilities. If the developer chooses to take advantage of the bonus option an agreement would likely be needed between the developer and the municipality.

Process - The bonus provisions must be incorporated in a by-law passed under Section 34 of the Planning Act. Therefore, all the notice, approval and appeal provisions of that section apply. Prior to the passing of a by-law containing such provisions, appropriate policies must be incorporated in the official plan. Where the bonus policies are set out in the official plan and by-law, and all the requirements are met by a developer, the density and/or height bonus must be granted without requiring a rezoning to permit the additional density and/or height. An agreement would be entered into addressing the facilities, services or matters, if the municipality so required.

Preparation of Official Plan Policies - The official plan policies must be carefully considered in order to ensure that the municipality's intentions with respect to allowing height and density increases in development in a neighbourhood are not misunderstood by its residents. It should be clear that such bonus awards will be made in defined circumstances. In determining these circumstances the municipality should also keep

in mind that use of the bonus provisions will be most effective and the increase will be more acceptable to the public, if the neighbourhood absorbing the increase will also enjoy the benefit of the facility or service to be provided.

The official plan should address the following points relating to the use of the bonus provisions:

. Objectives of the municipality in using bonus provisions:

At a minimum, the official plan should identify the general circumstances in which the bonus provisions might apply. Specifically, the objectives the municipality wants to achieve in using the bonus provisions should be identified. For example, the municipality's official plan may contain various objectives relating to a range of municipal interests, such as:

- provision of a wide range of housing types including family type housing or assisted housing;
- preservation of the unique character of certain parts of the municipality containing buildings with historical or architectural significance;
- encouraging innnovative building designs;
- provision of community and open space facilities such as small parks, day care centres, community centres, recreational facilities.

If the municipality wishes to use bonus techniques to achieve such objectives, statements to this effect should be included in the official plan.

. Implementation:

Since bonus provisions are actually implemented through the zoning by-law, it is important that the by-law contain enough information so that a prospective developer knows what his development options are. Therefore, the official plan's implementation policies should require that the by-law:

- Contain the detailed development standards that would apply when the bonus is awarded. If the bonus is not awarded, the standards of the basic zoning category assigned to the site would apply. These standards, of course, must comply with the policies in the official plan.

- Set out how these bonus standards relate to the conditions ("facilities, services or matters") that are required to be met in order for the bonus standards to apply to the site.

- Address the matters to be dealt with in the agreement. The reference in the by-law should not make the bonus award conditional on entering into the agreement. Rather, it should be clear that as part of the bonus being awarded and the bonus standards applying, the agreement will be entered into.

- Be written in such a way as to ensure that discretion cannot be applied. If the conditions to be met and the bonus to be awarded are all agreed to and set out in an agreement, a rezoning should not be necessary.

In determining appropriate sets of bonus standards, several points should be kept in mind:

- The extent of the increase in height/density should be compatible with adajcent development.

- The bonus density and height proposed must conform with the municipality's official plan.

- The municipality's expecations of the developer in terms of services to be provided or conditions to be met should be realistic, in terms of marketability, general economics and the needs of the municipality.

- Specific or unique local needs and expecations should be taken into account.

As the success of bonus provisions is dependent upon a developer being given enough incentive to consider using them it is important to ensure that the bonuses are worthwhile. At the same time, it is essenital to ensure that whatever additional height or density is awarded will not overload streets or other public services upon which the official plan is predicated.

APPENDIX 7

Height and/or Density Incentives To Promote Private Sector Involvement in the Provision of Public Benefits, Including Assisted Housing

8.12 As permitted by section 36 of The Planning Act, in amending this Plan to include general provisions and policies, and provisions or policies developed in the context of applications for specific developments, and in passing zoning by-laws to implement this Plan, Council may authorize increases in the height and/or density of development in order to encourage private sector involvement in the realization of the objectives of this Plan with respect to the following facilities, services and matters:

i. assisted housing;

ii. non-profit community, cultural and institutional facilities;

iii. heritage preservation;

iv. public open space beyond that which might otherwise be required pursuant to The Planning Act;

v. significant pedestrian connections in accordance with major public objectives; and

vi. other facilities, services, and matters which may not otherwise be required to be provided pursuant to The Planning Act, and which are considered to be advisable by Council following its consideration of the appropriate planning study.

8.13 In identifying specific facilities, services and matters in exchange for which increases in height and/or density may be authorized, it is Council's intention that such increases should generally be used to promote private sector involvement in the provision and use of land, buildings or parts of buildings, structures and physical spaces for specified purposes.

8.14 In determining the size of any height and/or density increase which it may authorize in accordance with Section 8.12, Council will have particular regard for:

i. the need to ensure an appropriate building scale and satisfactory microclimatic conditions in the context of surrounding development and land uses;

ii. the need to ensure that transportation and other services can accommodate the increase in density;

iii. the estimated market value of the increase in density; and

iv. the estimated cost of providing the specific facilities, services or matters which may be accepted in exchange for any increases in height and/or density.

8.15 In order to ensure that the objectives of this Plan with respect to mixed use development, housing, office space and transportation are not compromised, it is Council's position that increases in commercial density in accordance with Section 8.12 should generally be limited to the Financial District, except where special area studies, including study of the impact of such incentives, indicates that the provision of such incentives elsewhere is consistent with these objectives.

8.16 With respect to any incentives which may be authorized in accordance with Section 8.12 in order to promote the provision of assisted housing, it is Council's objective that

a) such provision take the form of:

i. the allocation of land for assisted housing on the development site;

ii. the provision of land acceptable to Council for assisted housing purposes at another location; and/or

iii. a cash payment-in-lieu of the provision of land for assisted housing purposes; and

b) the estimated value of any increases in height and/or density authorized in exchange for the provision of land for assisted housing in accordance

with paragraphs (ii) and (iii) of Section 8.16 (a) above and/or any cash payment-in-lieu, should generally not exceed approximately two times the estimated cost of providing the assisted housing contribution.

8.17 With respect to any increases in height and/or density which Council may authorize in exchange for other public benefits, Council recognizes that the provision of certain public benefits may also enhance the value of the private development, and that in such cases a smaller incentive than that provided with respect to assisted housing would be appropriate.

8.18 It is the policy of Council to review any policies and provisions developed in accordance with Sections 8.12 - 8.17 above at least every five years from the date of the approval of those Sections."

APPENDIX 8

Proposed Assisted Housing Density Bonus Policy For the Financial District

3A.4(f) Notwithstanding the provisions of Section 3A.4(b), (density provisions for Financial District) Council may pass by-laws pursuant to Section 36 of The Planning Act to permit buildings containing commercial and/or institutional uses, alone or in combination with other uses permitted by Section 3A.4(b), with a commercial density of up to 10.0, in exchange for the conveyance to the City of a site or sites within the Central Area to be used for assisted housing purposes, provided that:

i. any site to be conveyed to the City for assisted housing purposes in accordance with this section is acceptable to Council;

ii. subject to Section 3A.4(g), the commercial density in excess of 8.0 does not exceed 56 square metres times the aggregate number of conventional assisted housing units permitted by this Plan on the site or sites to be conveyed to the City for assisted housing purposes;

iii. in the case of an assisted housing site which is designated as a Mixed Commercial-Residential Area by this Plan, the number of conventional assisted housing units which may be developed on the site is calculated in units per hectare;

iv. the conveyance of the assisted housing site or sites and/or the provision of any cash payment-in-lieu in accordance with Section 3A.4(h) have been secured by an apropriate legal agreement;

v. for every 100 square metres of additional non-residential gross floor area permitted by a by-law enacted pursuant to this section respecting a lot in the Financial District, the by-law also requires a reduction of one

dwelling unit on the Financial District lands to which the by-law applies; and

vi. the aggregate non-residential gross floor area including any non-residential gross floor area permitted by Section 1A.35 or permitted to be excluded from the calculation of density by Section 1A.42, on any lot to which a by-law enacted pursuant to this section applies does not exceed 12 times the area of the lot.

3A.4(g) Notwithstanding the provision of Section 3A.4(f)(ii), where a site to be conveyed to the City for assisted housing purposes is designated by this Plan to permit commercial density in addition to the maximum residential density permitted by this Plan on the site, each 100 square metres of such residual commercial density may be deemed to be equivalent to a conventional assisted housing unit for the purposes of Section 3A.4(b)(ii).

3A.4(h) In lieu of the conveyance of a site or sites in accordance with Section 3A.4(f), and provided it is satisfied that such a conveyance cannot be achieved, Council may accept funds sufficient to acquire the same amount of land within the Central Area at market value, for assisted housing purposes.

3A.4(i) It is the policy of Council to review the use of the provisions of Sections 3A.4(f) - 3A.4(h) at two-year intervals in order to determine:

i. whether the provisions have been effective in securing the expansion of the City's stock of assisted housing; and

ii. whether the increased commercial density permitted through the implementation of these provisions has had an undesirable impact on the City; and

ii. in order to recommend revisions to these provisions as considered appropriate in the context of the findings of the review.